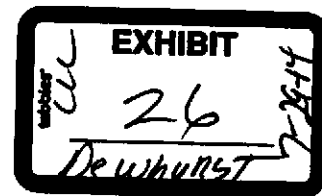


TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE:

CONSIDERATION OF
SENATE BILL 14

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COMMITTEE OF THE WHOLE SENATE
TUESDAY, JANUARY 25, 2011

BE IT REMEMBERED THAT AT 8:05 a.m., on
Tuesday, the 25th day of January 2011, the above-
entitled matter continued at the Texas State Capitol,
Senate Chamber, Austin, Texas, before the Committee of
the Whole Senate. The following proceedings were
reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim
Pence, Certified Shorthand Reporters.

VOLUME 2

PAGES 20 - 542

CONSIDERATION OF SENATE BILL 14 1/25/2011

<p style="text-align: right;">21</p> <p>1 PROCEEDINGS</p> <p>2 TUESDAY, JANUARY 25, 2011</p> <p>3 (8:05 a.m.)</p> <p>4 CHAIRMAN DUNCAN: The Committee of the</p> <p>5 Whole will come to order.</p> <p>6 OPENING INSTRUCTIONS BY CHAIRMAN DUNCAN</p> <p>7 CHAIRMAN DUNCAN: Members, we talked</p> <p>8 yesterday a little bit about the process, and I thought</p> <p>9 I would go through that once again so that we'll all</p> <p>10 kind of know what the plan is.</p> <p>11 First of all, I intend to recognize</p> <p>12 Senator Fraser in just a moment to lay out the specifics</p> <p>13 of Senate Bill 14. And then after he lays the bill out,</p> <p>14 then members will be recognized for questions of the</p> <p>15 author or co-authors. Then after that is finished, then</p> <p>16 our invited testimony will begin. It's the Chair's</p> <p>17 intent to place a 10-minute limit on invited testimony.</p> <p>18 And then there will be no questions to interrupt the</p> <p>19 invited testimony as they're laying out their positions</p> <p>20 or their testimony. Then once they're finished, members</p> <p>21 will be recognized for questions.</p> <p>22 When that's done, we'll have a resource</p> <p>23 witness panel that will be available for you. I'm</p> <p>24 advised that we have David Maxwell, Deputy Director of</p> <p>25 Law Enforcement with the Office of the Attorney General;</p>	<p style="text-align: right;">23</p> <p>1 I can see you.</p> <p>2 Remember Ms. Kennedy from last time. I</p> <p>3 think she went 12 or 13 hours.</p> <p>4 Because we're making a record here,</p> <p>5 obviously we need to be mindful that the court reporter</p> <p>6 only has two hands and can only type one person at a</p> <p>7 time. So the Chair will be careful to help you remember</p> <p>8 that we cannot have people talking over each other.</p> <p>9 Also we need to try to identify each other</p> <p>10 so that -- or identify yourself when you're speaking or</p> <p>11 I'll try to do that so that the record will be clear as</p> <p>12 to the source of the comments being recorded.</p> <p>13 We will take periodic breaks in order to</p> <p>14 allow the court reporter a little time, but we will move</p> <p>15 expeditiously as we move through the process.</p> <p>16 There is a document -- like last session,</p> <p>17 we will have an orderly process for admitting documents</p> <p>18 into the record. They will be labeled as exhibits and</p> <p>19 be referred to in the record and will be received in the</p> <p>20 record by exhibit number. So when you have an exhibit</p> <p>21 that you want to introduce into the record, well, then,</p> <p>22 you'll need to have it marked. And the secretary's desk</p> <p>23 up here will have a procedure for marking your exhibits</p> <p>24 and receiving them in the record.</p> <p>25 Once we have completed the public</p>
<p style="text-align: right;">22</p> <p>1 and Ann McGeehan, Director of Elections, the Secretary</p> <p>2 of State's office; and Rebecca Davio, Assistant Director</p> <p>3 for Driver's License with the Department of Public</p> <p>4 Safety.</p> <p>5 When we have completed the invited</p> <p>6 testimony and you've had an opportunity to question</p> <p>7 those who have been invited, then I will -- I don't</p> <p>8 think the list is as long as it was last year, but</p> <p>9 certainly I'm sure there will be discussion among the</p> <p>10 members concerning their testimony.</p> <p>11 Then we'll open up for public testimony.</p> <p>12 You will recall last session, we would announce the</p> <p>13 names of those who were in line, and you are in line in</p> <p>14 order of your registration at the front desk. We will</p> <p>15 have those persons escorted down to the well, and then</p> <p>16 they will be allowed to begin their testimony.</p> <p>17 It's the intent of the Chair to impose a</p> <p>18 three-minute time limit on the public testimony as well,</p> <p>19 and I will not recognize anyone to interrupt someone</p> <p>20 giving public testimony until their time has run. There</p> <p>21 is a timer at the front at the secretary's desk. There</p> <p>22 will be a warning; I think it's a 30-second warning.</p> <p>23 Members, we do have a court reporter,</p> <p>24 Ms. Kennedy.</p> <p>25 Ms. Kennedy, would you stand so everyone</p>	<p style="text-align: right;">24</p> <p>1 testimony -- and, obviously, we're going to be</p> <p>2 interrupted by our senate session which begins at 11:00.</p> <p>3 Once we finish the public testimony, then it will be</p> <p>4 appropriate for you to lay out any amendments that you</p> <p>5 may wish to have considered by the body.</p> <p>6 And once that's completed, then,</p> <p>7 obviously, we will vote on our resolutions to rise and</p> <p>8 report back to the full Senate.</p> <p>9 That is basically the layout of the</p> <p>10 procedure. Any questions?</p> <p>11 Senator Van de Putte.</p> <p>12 SEN. VAN de PUTTE: Thank you,</p> <p>13 Mr. Chairman. Thank you for outlining the process and</p> <p>14 the procedures that we will be using today. My question</p> <p>15 is specifically with those members of the public who</p> <p>16 wish to offer testimony sometimes today who have</p> <p>17 disabilities. To my knowledge, we have people coming to</p> <p>18 the floor who are in wheelchairs and will not be able to</p> <p>19 use the podium. I wanted to ask what sort of amenities</p> <p>20 or accommodations we will have so that they will be able</p> <p>21 to have that, but some sort of a table so they can refer</p> <p>22 to their documents when they're testifying.</p> <p>23 CHAIRMAN DUNCAN: Thank you, Senator Van</p> <p>24 de Putte, an excellent question.</p> <p>25 We do have a wireless mic that will be</p>

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1 LAYING OUT OF SENATE BILL 14

2 SEN. FRASER: Thank you, members.

3 Obviously, this is an issue that we know a lot about, we
4 had a lot of experience with two years ago. The issue I
5 think has been defined and talked about a lot.

6 I think we all recognize the dangers of
7 voter fraud has threatened the integrity of the
8 electoral process for the entire history of the United
9 States. The threat continues today. In 2005, there was
10 a Commission, a bipartisan commission, the Carter-Baker
11 Commission, that was appointed by the Election
12 Commission. Of course, President Carter, a past
13 president; James Baker, Secretary of State, they
14 reaffirmed the dangers by saying, "Elections are at the
15 heart of democracy. Americans are losing confidence in
16 the fairness of elections. And while we do not face a
17 crisis today, we need to address the problem of our
18 electoral system."

19 The Commission concluded at the end of the
20 day, "There is considerable national evidence of
21 in-person voter fraud. And regardless of whether one
22 believes that voter impersonation is widespread or
23 relatively rare, there can be no serious dispute that
24 the real effect can be substantial because in a close
25 election, even a small amount of fraud could make the

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 margin of difference."

2 Texas today has a legitimate interest in
3 protecting elections. It is imperative that we protect
4 the public's confidence in elections by deterring and
5 detecting voter fraud.

6 In upholding the Indiana photo ID law, the
7 U.S. Supreme Court stated, "Confidence in the integrity
8 of our electoral process is essential to the functioning
9 of our participatory democracy. Voter fraud drives
10 honest citizens out of the democratic process and breeds
11 distrust of our government. Voters who fear the
12 legitimate votes will be outweighed by fraudulent ones,
13 will feel disenfranchised."

14 On October 10, Lighthouse poll, which I
15 have here and be entering into the record -- it's the
16 newest poll that is out -- shows that 86 percent of
17 Texas voters -- that's both Republican and Democrats --
18 favor voter photo ID laws.

19 The bill that we're laying out today is in
20 compliance with the U.S. Supreme Court Decision which
21 upheld the Indiana voter ID legislation because it,
22 No. 1, deters and detects fraud; 2, it protects the
23 confidence in elections; and, 3, it counts only eligible
24 voters' votes.

25 It also complies with the Supreme Court

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1 decision, because it offset burdens on voters by
2 providing access to free ID cards, allowing for
3 provisional ballots and absentee ballots, ensuring that
4 obtaining photo ID is no more inconvenient or burdensome
5 than the usual act of voting and providing an exception
6 for elderly voters.

7 The current law, as you know, provides
8 that when a voter shows up to vote, he or she must just
9 show a valid voter registration card. If unable to do
10 so, the voter may show a photo ID card or other official
11 mail from a government entity -- utility bill, bank
12 statement, government check, paycheck or other
13 government document with name and address -- and sign an
14 affidavit.

15 Senate Bill 14, what we're doing with this
16 bill, Senate Bill 14 would require a voter to show a
17 photo ID except that people 70 or older on January 1,
18 2012, may continue to vote with just a registration
19 card, under current law.

20 Acceptable ID will include an unexpired
21 card issued by the Department of Public Safety, a
22 military ID, a passport or a citizenship certificate
23 with photo. Voters who cannot produce an acceptable
24 form of photo identification will be allowed to cast a
25 provisional ballot. That ballot will be counted if the

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1 voter returns within six days to show a photo ID.

2 It would also provide for statewide
3 training and notification of the changes required for
4 the individual to vote with the photo ID. It would
5 provide for a free DPS-issued identification card to any
6 registered voter who requests an identification card.

7 Every fraudulent vote effectively still is
8 a legitimate vote. Elections are too important to leave
9 unprotected when the Legislature could take proactive
10 steps to prevent fraud and protect our democracy.

11 Mr. President, that is what Senate Bill 14
12 does. And if there's no questions, I would move
13 passage.

14 SEN. WHITMIRE: Mr. President --

15 SEN. VAN de PUTTE: Yes.

16 SEN. WHITMIRE: -- could we slow down?
17 Will the gentleman yield?

18 CHAIRMAN DUNCAN: I think Senator Van de
19 Putte was first on the list, Senator.

20 Senator Van de Putte.

21 SEN. VAN de PUTTE: Thank you,
22 Mr. Chairman, I think. Mr, Chairman, inquiry. At what
23 point in the proceedings today would a motion be in
24 order to move that all of the testimony and record from
25 this issue from the 2009 legislative session be made

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1 into the record? Would that be done -- would that
2 motion be proper at the point of original testimony or
3 at the beginning of these questions at this point?

4 CHAIRMAN DUNCAN: Senator, at any time
5 that one would want to make that motion, it would be
6 recognized.

7 SEN. VAN de PUTTE: Mr. Chairman, would
8 you recognize me for that motion at this time?

9 SEN. FRASER: Mr. Chairman --

10 CHAIRMAN DUNCAN: Before we do that, we do
11 have a motion in writing that Sen. Huffman intends to
12 introduce with the record, so why don't we do that first
13 and then we'll do everything else. And it would be my
14 suggestion to -- and what I had hoped to do was finish
15 the testimony or at least the question and answers on
16 the bill and then start at that point in time putting
17 evidence into the record. So if that's suitable with
18 everyone, it just makes a little more sense to me to
19 keep it in order that way.

20 SEN. VAN de PUTTE: Thank you,
21 Mr. Chairman.

22 And then I would like to ask my colleague,
23 the author of the bill, to yield.

24 CHAIRMAN DUNCAN: Okay.

25 SEN. FRASER: Mr. Chairman, before we --

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1 CHAIRMAN DUNCAN: Senator Fraser, why
2 don't we approach the chair; approach.

3 (Off-the-record discussion at bench)

4 CHAIRMAN DUNCAN: The Chairman recognizes
5 Senator Huffman for motion in writing.

6 SEN. HUFFMAN: Thank you, Mr. Chairman.

7 At this time I move that the entire record
8 and transcripts of the hearing related to Senate Bill
9 362 heard by the Committee of the Whole during the 81st
10 Legislative session be included in the record and would
11 move that it marked as Exhibit No. 1.

12 Exhibit No. 1 includes all the invited,
13 public and written testimony, in addition to all of the
14 exhibits submitted by the members during the hearing on
15 Senate Bill 362. The previous testimony and debate on
16 Senate Bill 362 is relevant, because then and now the
17 objective is to create legislation that protects the
18 integrity and reliability of the electoral process.

19 It includes 870 pages of transcribed
20 testimony. There were 13 invited witnesses plus two
21 resource witnesses, 36 public witnesses and 29 written
22 articles presented. So it includes all the exhibits as
23 well, submitted by members during the 81st legislative
24 session on the Committee of the Whole, which totals 55
25 total exhibits.

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1 At this time I move for introduction of
2 Exhibit No. 1 into the Committee of the Whole's records.

3 (Exhibit No. 1 marked)

4 CHAIRMAN DUNCAN: Members, you've heard
5 the motion. Is there any objection to the motion?

6 SEN. DAVIS: Question.

7 CHAIRMAN DUNCAN: Senator Davis, do you
8 have a question?

9 SEN. DAVIS: Yes.

10 Senator Huffman, during the debate on the
11 Senate floor last session, a number of questions could
12 not be answered by some of the resource witnesses at the
13 moment that they were asked; and, instead, there was a
14 follow-up. For example, the Secretary of State's office
15 and the Attorney General's office wrote follow-up
16 answers to some of the questions that they were not
17 prepared to ask during the hearing. Does your motion in
18 writing include the inclusion of those written responses
19 that were provided to the Senate after the hearing took
20 place?

21 SEN. HUFFMAN: I am not advised on that,
22 but I would certainly have no objection and would move
23 for all of that to be included in the record, because I
24 think it would certainly make it, you know, more
25 complete and certainly would be relevant.

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1 The record has been certified by Patsy
2 Spaw, the Secretary of the Senate, and so we might check
3 with her to see if that was done. If not, we could
4 certainly make sure that it was placed in Exhibit No. 1
5 as part of the record.

6 SEN. DAVIS: Thank you. I would
7 appreciate that.

8 CHAIRMAN DUNCAN: I suggest that it be
9 Exhibit 1A, if there are additional information, so that
10 it can be kept separate from what you are going to
11 introduce in your motion in writing as Exhibit 1.

12 SEN. HUFFMAN: Yes, sir.

13 CHAIRMAN DUNCAN: Okay. Is there any
14 objection to Exhibit 1 being included in the record?

15 All right. The Chair hears none. Exhibit
16 1 will be included in the record.

17 (Exhibit No. 1 admitted)

18 CHAIRMAN DUNCAN: All right. Sen. Van de
19 Putte.

20 SEN. VAN de PUTTE: Thank you,
21 Mr. Chairman.

22 QUESTIONS FROM SENATE FLOOR

23 SEN. VAN de PUTTE: Would the gentleman
24 yield, the author of the bill yield?

25 SEN. FRASER: I would yield.

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1 SEN. VAN de PUTTE: Thank you. Thank you,
2 Mr. Chairman.

3 And thank you, Senator Fraser.

4 Senator Fraser, this is kind of like a
5 dance where we have another song, another round, and so
6 we find ourselves with another year and this version of
7 the voter identification bill. And I wanted to ask you
8 a few questions.

9 Given the fact that the bill that was
10 debated during the 81st Legislature was a different
11 bill, can you tell me the model for the bill that was in
12 the 81st Legislature and the differences in what you
13 have proposed in this legislative session?

14 SEN. FRASER: Well, if you don't mind, the
15 bill before us today is Senate Bill 14, and I will
16 probably spend my time talking about that bill. The
17 bill you're addressing, obviously, didn't get through
18 the process. So I'm going to be addressing the comments
19 on Senate Bill 14 which is before us. So I would be
20 glad to describe it, if you would like.

21 SEN. VAN de PUTTE: Well, my question has
22 to deal with -- I understand that since last we met,
23 there are two years and different court cases. And the
24 bill that was before this body last legislative session
25 was modeled on a Georgia law and used the template. And

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1 I understand it, this year's model is fashioned after
2 the Indiana law?

3 SEN. FRASER: And I think you actually
4 have made the point that I was going to make. Two years
5 have passed. Since that time, we've had, you know,
6 obviously, the confirmation by the Supreme Court on the
7 photo ID and then also the preclearance of the Georgia
8 bill by Dale Jays (phonetic).

9 So looking at, you know, the experience of
10 the bill in place, the simplicity of the photo ID, we
11 chose to go with that. And as you will remember, the
12 recommendation by President Carter and Secretary of
13 State Baker was, you know, the national photo ID, and
14 that's what we're attempting to implement.

15 SEN. VAN de PUTTE: Thank you.
16 Mr. Chairman.

17 And a few other questions. With the
18 Carter-Baker Commission, they felt very strongly about
19 encouraging the maximum participation in voter and
20 suggested the type of strategies that we're using. But
21 the addendum for both gentlemen and the members of the
22 commission were that they, as I recall, and entered into
23 the record during last legislative session, was that the
24 conclusion of the commission was that we should not
25 implement the type of photo identification until you had

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1 universal registration, and I believe that was one. But
2 given that or not, what I really wanted to ask you is --

3 SEN. FRASER: Hold on a second. I'm
4 sorry. I disagree with that. That is not what the
5 commission said. And if you would like to correct that,
6 but I disagree.

7 SEN. VAN de PUTTE: The State of Georgia
8 is under two sections of the Voting Rights Act, as is
9 Texas. Is that correct?

10 SEN. FRASER: They are a Section 5 voting
11 rights state like Texas.

12 SEN. VAN de PUTTE: And to your knowledge,
13 is the State of Indiana subject to Section 5 of the
14 Voting Rights Act?

15 SEN. FRASER: To my knowledge, they are
16 not.

17 SEN. VAN de PUTTE: So Indiana would have
18 a different burden of proof under a legal document and a
19 legal challenge than the State of Georgia?

20 (Brief pause)

21 SEN. FRASER: I'm sorry. I was asking for
22 some data. Would you reask the question, please.

23 SEN. VAN de PUTTE: The State of Indiana,
24 which your bill is modeled after, without two alternate
25 forms of identification; whereas, the Georgia bill that

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1 we talked about last legislative session had two --
2 certainly had a photo identification, but if the voter
3 was unable to produce a photo identification, they could
4 produce for the election judges two forms of
5 identification without, and it was utility bill and --
6 in fact, the things that you struck here.

7 But in Indiana that requirement is not
8 there, so we went with the Indiana bill. But my
9 question is, Indiana is not subject to Section 5 of the
10 Voting Rights Act. So their legal hurdle to the
11 Department of Justice challenge is very different than
12 what happened in the State of Georgia. Is that correct?

13 SEN. FRASER: The Indiana law has been
14 approved by the U.S. Supreme Court, the Georgia law was
15 precleared by the Department of Justice, and both of
16 those have gone through that challenge.

17 SEN. VAN de PUTTE: Senator Fraser, when
18 this legislature passes the voter identification bill --
19 and there is no doubt that this bill will pass -- it
20 will have to proceed to the Department of Justice for
21 clearance?

22 SEN. FRASER: As a Section 5 state, we are
23 subject to Section 5 rules.

24 SEN. VAN de PUTTE: So, yes, it will
25 proceed to the Department of Justice?

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1 SEN. FRASER: We are a Section 5 voter
2 rights state, and we will be subject to those laws.

3 SEN. VAN de PUTTE: And do you have any
4 concerns that a Section 5 state as Texas would offer to
5 the Department of Justice a voter identification bill
6 that mirrors a non-Section 5 state rather than something
7 that has already been upheld in the Georgia law, a
8 Section 5 state?

9 SEN. FRASER: We are offering a bill that
10 has been approved by the U.S. Supreme Court. And the
11 parameters that the Supreme Court set, we meet all of
12 those tests.

13 SEN. VAN de PUTTE: However, in the
14 Indiana court and in the Supreme Court case on Indiana,
15 what they said was, the undue burden was -- did not be
16 demonstrative because they did not have the level of
17 minority voters, that was never a check point, because
18 they did not have to go through the Department of
19 Justice. Is that correct?

20 SEN. FRASER: I'm sorry. I'm having
21 equipment failure here. Just a second.

22 (Brief pause)

23 SEN. FRASER: Senator, I'm sorry. I'm
24 asking for data, backup data, because the information
25 that you're addressing, my information doesn't agree

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1 with that, is that the Georgia law that I have in front
2 of me said it is a photo ID. Do you have something that
3 shows differently?

4 SEN. VAN de PUTTE: Yes. In the Georgia
5 bill, you have to have a photo ID. However --

6 SEN. FRASER: I realize you're saying
7 that, but do you have -- you know, do you --

8 SEN. VAN de PUTTE: The bill that you
9 introduced last year had the two alternate forms of ID,
10 which was exactly the Georgia bill. We used the model
11 of the Georgia bill.

12 SEN. FRASER: And that bill is not before
13 us today; Senate Bill 14 is before us.

14 SEN. VAN de PUTTE: That's correct. And
15 so my question is --

16 SEN. FRASER: And I would ask you, did you
17 vote for that bill last year?

18 SEN. VAN de PUTTE: No, sir, I didn't.

19 SEN. FRASER: Okay.

20 SEN. VAN de PUTTE: But my question is, do
21 you have any concerns that we will offer to the
22 Department of Justice a bill, a voter identification
23 bill that is modeled after a state law that does not
24 have to go through Section 5, rather than a Georgia
25 model which already has been proven and has been

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1 affirmed, both in the court case and the Department of
2 Justice? That was my question. Do you have any concern
3 that we will have done all of this debate and work, and
4 certainly to ensure the ballot security, only to be shut
5 down at the Department of Justice, because we are a
6 Section 5 state and what we're offering in your bill is
7 not something that has been approved by the Department
8 of Justice?

9 SEN. FRASER: I have no concern about
10 Senate Bill 14, both going before the U.S. Supreme Court
11 or going before the Department of Justice.

12 SEN. VAN de PUTTE: Thank you, Senator
13 Fraser. I wanted to ask a little bit of your thinking.
14 And in the bill that you have before us, the student
15 identifications were omitted from your list of
16 acceptable documentation. And could you give me the
17 rationale why a student photo identification is not
18 acceptable form of identification?

19 SEN. FRASER: The types of identification
20 we've included are one from a government entity that
21 would identify that person as who they are, that they
22 say they are, they're a valid voter and a citizen of the
23 United States, and these are the ones that we have
24 suggested that would be acceptable.

25 SEN. VAN de PUTTE: So the rationale for

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1 not having student identification cards on the list,
2 since you omitted them, is because they aren't issued by
3 a governmental entity?

4 SEN. FRASER: I didn't say that.

5 SEN. VAN de PUTTE: I'm sorry. Can you
6 repeat your answer.

7 SEN. FRASER: I said I did not say that.

8 SEN. VAN de PUTTE: So why were the
9 student identifications -- you explained that the
10 student identifications were omitted from the list of
11 acceptable documentation, because it was not a
12 government entity.

13 SEN. FRASER: The four types of
14 identification that we are offering up we believe are
15 less confusing, they're simpler for both voters and
16 election voters. Everyone knows what they look like.
17 There is a standardization of those, and they all look
18 alike and it would be less confusing for the systems who
19 are accepting the voter IT.

20 SEN. VAN de PUTTE: And, Senator Fraser,
21 one of the provisions in your bill also omits birth
22 certificates from the list of acceptable forms of
23 identification, even though that does come from
24 government entities. And so why is it that birth
25 certificates were omitted?

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1 SEN. FRASER: This is requiring a photo
2 ID, current photo ID.

3 SEN. VAN de PUTTE: Senator Fraser, are
4 there any provisions in the bill to accommodate a voter
5 that has a different address on their photo
6 identification and their voter registration card?

7 SEN. FRASER: The Secretary of State is
8 here as a resource witness, and I'm sure they will be
9 glad to answer that.

10 SEN. VAN de PUTTE: No, I'm not asking the
11 difference. I'm asking, is there any provision in
12 Senate Bill 14?

13 SEN. FRASER: It is not addressed, because
14 that is taken care of by the Secretary of State, that we
15 don't address that in the bill. That would be by an
16 interpretation of rule of the Secretary of State. They
17 will be here, and you can ask them that question.

18 SEN. VAN de PUTTE: So also you would
19 prefer that we ask the Secretary of State what sort of
20 provision, since your bill is silent on different last
21 names?

22 SEN. FRASER: Again, that's a question
23 that --

24 SEN. VAN de PUTTE: So, for example, women
25 that got married?

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: We've actually got two
2 different -- you know, kind of an overlap here. We've
3 got the Department of Public Safety that I believe
4 Senator Williams is going to be answering questions,
5 because that's his area. And then we also have the
6 Secretary of State available as a resource that I think
7 you can ask that question.

8 SEN. VAN de PUTTE: Senator Fraser, under
9 Senate Bill 14, your voters can cast a provisional
10 ballot. Under the Indiana bill, that is set at a 10-day
11 cure. Why is it that you chose a six-day cure?

12 SEN. FRASER: And you'll remember, the
13 Georgia law is only 48 hours, two days. They went 10
14 days; the Georgia law went two days. We decided that
15 six days should be sufficient to come back.

16 SEN. VAN de PUTTE: And as I understand
17 it, the Georgia law does have a 48, but they can use two
18 alternate forms of ID which are not in your bill. So
19 what sort of --

20 SEN. FRASER: I'm sorry. You know, you
21 keep saying that. You need to pull up the data to show
22 me that, please.

23 SEN. VAN de PUTTE: So to prove their
24 provisional ballot is correct and the six-day cure, what
25 documentation does your bill have that is acceptable?

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Photo ID.

2 SEN. VAN de PUTTE: So only a photo
3 identification. So they would have to --

4 SEN. FRASER: The acceptable photo IDs
5 that are outlined in the bill would be an acceptable
6 form, yes.

7 SEN. VAN de PUTTE: Senator Fraser, do you
8 know right now in the State of Texas, we're able to cast
9 provisional ballots? That's correct, isn't it?

10 SEN. FRASER: I'm sorry. Ask that again.

11 SEN. VAN de PUTTE: Current election law
12 allows Texas voters to cast a provisional ballot. Is
13 that correct?

14 SEN. FRASER: I'm sorry. That is another
15 question I think you should ask the Secretary of State.
16 It is my belief that, but I'm sorry, I don't want to
17 answer that. You can, if you don't mind, ask the
18 Secretary of State.

19 SEN. VAN de PUTTE: Thank you, Senator.
20 Since it's based on Indiana law, do you believe that the
21 State of Texas has a greater minority population than
22 the State of Indiana?

23 SEN. FRASER: I'm not advised.

24 SEN. VAN de PUTTE: To your knowledge,
25 have any studies been done to determine if there has

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1 been, under current Texas voter laws, any impact that it
2 would have on affected class of Latino and
3 African-American voters?

4 SEN. FRASER: The bill that I'm laying out
5 today is a model that has been approved by the U.S.
6 Supreme Court, it has been precleared by the Department
7 of Justice in Georgia. It will deter fraud. We're
8 providing free access of cards. And, yes, we believe
9 this will protect confidence in election in making sure
10 only eligible voters are counted.

11 SEN. VAN de PUTTE: Senator Fraser, on the
12 availability of free identification cards, is there a
13 means test, or what sort of proof do citizens have to
14 give to the Department of Public Safety to be able to
15 get a free identification card under your bill?

16 SEN. FRASER: The Department of Public
17 Safety is here as a resources witness. Senator Williams
18 is also here. That's his area of expertise. If you
19 have a question about that, if you would like, I will
20 yield to Senator Williams now or you can wait and ask
21 the DPS when it comes up.

22 SEN. VAN de PUTTE: Well, right now the
23 DPS I don't think gives free IDs. But in your bill,
24 what sort of process or documentation can voters use to
25 get a free identification card, in your bill? What are

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1 the --

2 SEN. FRASER: If you would like I can
3 yield to Senator Williams or we can wait and have the
4 DPS. Our instruction is the bill, is that they will
5 issue an ID card and they will not charge. That is very
6 clear to the DPS. And if you want to ask how that will
7 be done, they will be coming up, and you will be able to
8 ask that question. Or if you would like for me to yield
9 to Senator Williams, we'll let him answer that.

10 SEN. VAN de PUTTE: No, Senator. Thank
11 you. I appreciate this is just a different bill from
12 last legislative session, and I was trying to get at
13 least some of your thinking of why you went with a
14 different bill than last year, a more restrictive, a far
15 more restrictive bill than what we debated last
16 legislative session. And I look forward to the
17 questions, I look forward to the testimony today, but I
18 don't have any other further questions.

19 And I'm sure some of my colleagues have
20 questions, both of the author of the bill and any of the
21 other senators that have certain sections that they have
22 got expertise on.

23 But thank you very much, Mr. Chairman. I
24 don't have any other further questions.

25 CHAIRMAN DUNCAN: Senator Watson?

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1 SEN. WATSON: Thank you, Mr. Chair.

2 Will the senator yield for a couple of
3 questions? Oh, I'm sorry.

4 SEN. FRASER: One second, please. Are you
5 wanting me to yield?

6 SEN. WATSON: Yes --

7 SEN. FRASER: Hold on a second, please.

8 SEN. WATSON: -- if you don't mind.

9 (Brief pause)

10 (Senator Whitmire speaking without mic)

11 SEN. FRASER: Do you have the floor now?

12 (Senator Whitmire speaking without mic)

13 SEN. FRASER: No, you're asking questions
14 over here.

15 (Senator Whitmire speaking without mic)

16 SEN. FRASER: Making sure I get the
17 answers correct.

18 I will yield now.

19 SEN. WATSON: Thank you, Chairman Fraser.

20 I want, if you don't mind, to ask about
21 the fiscal note for just a second. The fiscal note that
22 was attached to your bill, Senate Bill 14, indicates
23 that the fiscal implication to the state is anticipated
24 to be \$2 million. Is that correct?

25 SEN. FRASER: Could you hold one second.

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1 SEN. WATSON: Sure.

2 SEN. FRASER: I need to pull the data
3 here.

4 (Brief pause)

5 SEN. FRASER: Senator, I was just
6 verifying. We spent a lot of time last night talking
7 about this. I think you're aware that the HAVA funds
8 that come from the federal government, which I believe
9 are Help America Vote Institute, I guess it is, Help
10 America Vote, the HAVA, there are funds that come to
11 every state to the secretary of state. We have a fund
12 that is setting in the Secretary of State's office that
13 would be more than sufficient to handle this.

14 In other states like Indiana and Georgia,
15 the HAVA funds have been used before. We have requested
16 that those funds be available for this. They advised us
17 back, until the passage of the bill, they can't approve
18 the funds. But the assumption is that those funds are
19 before the Secretary of State, and they will be here at
20 some point. You can ask them about those funds, the
21 parameters, but it is our belief that the HAVA funds
22 will be available for this and would offset the fiscal
23 note.

24 SEN. WATSON: I appreciate that answer.
25 My question was, it's a \$2 million fiscal note. Right?

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1 SEN. FRASER: Right now the fiscal note
2 that was delivered is \$2 million, yes.

3 SEN. WATSON: Okay. And that's what I
4 really wanted to ask about. And I'll talk about the
5 fact that y'all want to take some federal funds, here in
6 a second. But first of all, last session when we were
7 talking about the fiscal note, my memory was and is,
8 that at the beginning of the session when you filed the
9 bill last session, there was a zero fiscal note, and
10 then that got changed to the same as it is right now, a
11 \$2 million fiscal note for voter awareness, and it was
12 exclusively for voter awareness in the second fiscal
13 note.

14 Can you tell me what analysis has gone
15 into coming up with how much money should be spent on
16 voter awareness and voter education regarding this bill,
17 in order to get to that \$2 million?

18 SEN. FRASER: I think the analysis on this
19 comes from the Secretary of State's office, and I'm sure
20 they will be glad to answer your question. Two years
21 ago before we started, we advised them that we needed
22 voter education. If you remember in the bill, we
23 discussed in that when we were discussing that, that we
24 needed to have an appropriation for that.

25 I think Senator Ogden stood up and talked

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1 about the fact that they would be willing to make sure
2 that there was money there. Since then, we have been
3 made aware that the Secretary of State not only I think
4 has a plan for doing that but also a plan for requesting
5 the funds from HAVA.

6 SEN. WATSON: Well, I'll ask about that.
7 So, then, let me ask you another question. You
8 indicated in your opening comments that -- and I've read
9 your legislation -- under this bill, everyone gets a
10 free identification card if they come in and ask for a
11 free identification card, they show a voter registration
12 card and/or they apply for a registration card. That
13 \$2 million that you've just talked about doesn't include
14 the cost, any of the cost for providing these free
15 identification cards, does it?

16 SEN. FRASER: I'm sorry. I was doing
17 something else. Would you ask that last question again,
18 please.

19 SEN. WATSON: Does the \$2 million in the
20 fiscal note include any of the cost of providing free
21 identification cards?

22 SEN. FRASER: To my knowledge, it does
23 not.

24 SEN. WATSON: And, in fact, there is no
25 means test and your bill forbids DPS from collecting a

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1 fee. If any eligible voter comes in or submits a
2 registration application, they can then avoid what is
3 the typical \$15 fee?

4 SEN. FRASER: Senator, have you seen the
5 numbers that have been collected by DPS on the number of
6 eligible voters that have registered since 2006, the
7 ones that registered with a driver's license or a
8 driver's license and a social security card that
9 identified the number of people registering --

10 SEN. WATSON: Yes.

11 SEN. FRASER: -- that already had
12 identification? So the question you're asking is, the
13 universe we're talking about we believe is very, very,
14 very small. In fact, the Carter Commission, after the
15 implementation in both Indiana and Georgia, and actually
16 Mississippi they looked at, they found that only 1.2
17 percent of people did not have, already have a photo ID
18 available, so the universe of this, so the
19 question you're asking --

20 SEN. WATSON: Then why don't we talk about
21 specific numbers. With you talking about those numbers,
22 you're probably aware that in 2007, House Bill 218 was
23 offered. It was referred to the committee, the Senate
24 Committee on State Affairs. And in that one, which was
25 HB 218, DPS talked specifically about identification

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1 cards and it put a fiscal note, it believed that it
2 would be \$1.3 million per biennium or \$4 million every
3 six years out of the highway fund. Were you familiar
4 with that?

5 SEN. FRASER: Senator, you're getting into
6 an area that's outside of my area of expertise. We have
7 the person that's in charge of that. You've got two
8 choices. Either you can ask that question of DPS as a
9 resource when it comes up, or I will yield to Senator
10 Williams right now and he can answer your question.

11 SEN. WATSON: Senator, if you would answer
12 that question.

13 SEN. FRASER: I now yield to Senator
14 Williams.

15 SEN. WILLIAMS: I just want to be sure
16 I've got your question right.

17 SEN. WATSON: Sure. Since we're talking
18 about numbers here -- and I'm trying to get a feel for
19 what the cost of this is -- in House Bill 218 in the
20 2007 -- the 80th legislative session, there was a bill
21 filed that dealt with the provision of identification
22 cards. And in that one, the LBB indicated the fiscal
23 note would be \$1.3 million or \$4 million every year
24 coming out of the highway fund. Are you familiar with
25 that?

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1 SEN. WILLIAMS: I'm not familiar with
2 House Bill 218. But, you know, I take what you're
3 saying --

4 SEN. WATSON: Sure. Okay.

5 SEN. WILLIAMS: -- at value.

6 SEN. WATSON: And since I anticipate that
7 there would be deferral to you on the next question,
8 too, let me just go ahead and ask that. Last session,
9 in the 81st session, there was a bill by -- it was HB
10 2335 that indicated, similar to what Senate Bill 14 does
11 not, that there couldn't be a fee charged for issuing a
12 document that someone might use as proof of their
13 identification for purposes of voting. In the fiscal
14 note there, the LBB singled out DPS identification
15 cards, which is what we're talking about here, and
16 assumed that if everyone used those, the number they
17 came up in that fiscal note was \$47 million over five
18 years. Are you familiar with that one?

19 SEN. WILLIAMS: I'm not familiar with
20 that --

21 SEN. WATSON: Okay.

22 SEN. WILLIAMS: -- particular bill. But
23 what I can tell you is that the cost to the Department
24 of Public Safety for issuing an ID card is about \$1.67.
25 It's a very small amount of money. So \$47 million

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1 sounds -- that's a lot of IDs at a buck 67 apiece. And
2 so what I would say is that when I discussed this with
3 the Department of Public Safety recently -- and they'll
4 be here to testify about this in detail more -- I think
5 that it would be difficult for them to determine now how
6 many people might take advantage of the free ID card. I
7 think it's probably not possible for them to estimate
8 that.

9 But the cost, I think we're all pretty
10 comfortable that it would be fairly negligible. When
11 you look at the universe of registered voters, which is
12 somewhere around 13 million people, I think, and you've
13 got about 15 million people that have either a driver's
14 license -- and I can get you the exact numbers. I have
15 them here -- there are a lot of people that already --

16 SEN. WATSON: Right.

17 SEN. WILLIAMS: -- have state ID cards.
18 And a lot of the folks that don't have those would be
19 using a mail-in ballot, and there is no requirement to
20 present any kind of photo identification for a mail-in
21 ballot, and this legislative doesn't touch that. So we
22 think that the chances that there's going to be somebody
23 who is going to want to avail themselves, there will be
24 some, but it's going to be a very small number.

25 SEN. WATSON: Of course, what I'm

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1 attempting to do is not engage in that as I vote no
2 this. What I've tried to go is go back and find out
3 what the LBB, which we rely upon for fiscal notes, has
4 actually said about these sorts of things, with previous
5 legislation that has addressed this, as opposed to
6 speculation.

7 SEN. WILLIAMS: And, Senator Watson, I
8 understand, and there are a lot of things -- I'm not
9 familiar with those bills. And what I would tell you is
10 that each -- the LBB comes up with their methodology
11 based on what each bill's requirements are. And not
12 being familiar with that --

13 SEN. WATSON: Sure.

14 SEN. WILLIAMS: -- I can't tell you what
15 the difference between that and this is. But we did
16 specifically sit down and talk to DPS, and they really
17 don't expect that this is going to be any big burden on
18 the agency that they're not going to be able to handle.

19 SEN. WATSON: Thank you for your answer.

20 SEN. WILLIAMS: Yes.

21 SEN. WATSON: I have a couple more
22 questions for Senator Fraser, if that would be all
23 right.

24 SEN. FRASER: I'm back with you.

25 SEN. WATSON: Okay. Great! Thank you,

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1 Senator.

2 Would the HAVA money that -- first of all,
3 you're familiar that in the base budget that the Senate
4 has but out, the \$2 million for this biennium for voter
5 education has been explicitly cut. You're familiar with
6 that. Right?

7 SEN. FRASER: I don't think the word
8 "explicitly cut," I don't think it's been addressed.

9 SEN. WATSON: Well, it's been struck
10 through in the base budget. Did you know that?

11 SEN. FRASER: I'm not advised.

12 SEN. WATSON: Okay. Are you also familiar
13 that in this budget it calls for a \$358 million cut to
14 the DPS budget?

15 SEN. FRASER: Again, I'm not on Finance;
16 I'm not sure you're on Finance. And so, no, I
17 haven't -- the base bill is the starting point of
18 discussion, so I'm not advised.

19 SEN. WATSON: All right. So you're not
20 advised whether, out of that 9.5 percent of the cut
21 comes in regulatory and the licensing area for DPS?

22 SEN. FRASER: Well, and as you know, as we
23 start the session, that's a draft budget as a starting
24 point. We're a long ways from that being concluded. So
25 the answer is no, I'm not aware.

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1 SEN. WATSON: Thank you very much.

2 Thank you, Mr. Chairman.

3 SEN. ELTIFE: Senator Whitmire, what
4 purpose do you rise?

5 SEN. WHITMIRE: Will the gentleman yield?

6 SEN. ELTIFE: Senator Fraser yield?

7 SEN. FRASER: Be glad to.

8 SEN. WHITMIRE: Senator Fraser, a couple
9 of questions about the implementation of your
10 legislation if it passes. First off, I have to make
11 this observation: Have you ever seen the gallery so
12 empty when the Legislature is considering something
13 that's been given such a high billing as Senator Duncan
14 was making yesterday when he asked us to go to Committee
15 of the Whole? I mean, how timely this was and how
16 critical it was? The Governor has made it an emergency,
17 and I don't think I've -- I don't know if there's 20
18 people in the gallery. If it's so important, can you
19 explain to me why the gallery is empty --

20 SEN. FRASER: I am not advised.

21 SEN. WHITMIRE: -- based on --

22 SEN. FRASER: I'm concentrating on the
23 action on the floor rather than looking up and seeing
24 who is in the gallery.

25 SEN. WHITMIRE: Well, but it's an

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1 indication, if the public is really concerned,
2 particularly based on your polling data, which I'm sure
3 you would join with, we don't govern in the state by
4 polls normally, do we?

5 SEN. FRASER: Well, other than I find it
6 interesting, whenever they asked the people of your
7 district that you represent --

8 SEN. WHITMIRE: Sure.

9 SEN. FRASER: -- of whether they're in
10 favor, the polls continue to show that the public, both
11 Republican and Democrat --

12 SEN. WHITMIRE: Well --

13 SEN. FRASER: -- you say, "Will you
14 support a person voting with a photo ID?"

15 SEN. WHITMIRE: And did you include in
16 that question and would you be for it if it would
17 disenfranchise senior citizens, students or others? You
18 and I know it's all in how you ask the question. In
19 fact, the way you're stating it, I'm surprised you
20 didn't get 100 percent. If you ask people, "Are you
21 against vote fraud?" I would assume you would get
22 100 percent.

23 SEN. FRASER: Here's the question --
24 here's the question --

25 SEN. WHITMIRE: It's the unintended

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1 consequences that we're concerned about.

2 SEN. FRASER: "Do you favor or oppose
3 requiring a photo ID before a person is allowed to
4 vote?" Pretty straightforward.

5 SEN. WHITMIRE: I'm surprised you didn't
6 get 100 percent if you include "and stop fraud." It's
7 when you add into it, "if it meant disenfranchising
8 senior citizens," and then I think you would have a
9 significant drop.

10 The bottom line is, Senator Fraser, and
11 we'll have -- and let's have this ballot: Would you
12 concede that we're all, all 31 of us are against
13 election fraud?

14 SEN. FRASER: I will not concede that
15 until after the vote, and we're assuming the ones that
16 vote for it are --

17 SEN. WHITMIRE: Well, let me go ahead and
18 speak for the 12 of us that are probably going to vote
19 "No." We're all against election fraud. And I would
20 suggest we've actually seen an election process since we
21 took this up two years ago. Let's look at the most
22 recent election. What fraudulent activity this past
23 November are you so concerned about? I think it's the
24 election -- and maybe I should be more concerned.

25 If you look at the election results, it

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1 was an overwhelming victorious day for Republicans in
2 November. You replaced 34 Democrats in the house. Now,
3 are you suggesting there was significant fraud on that
4 election day?

5 SEN. FRASER: Senator, all we're trying to
6 do with this bill is that when you walk into the polling
7 place and represent that you are John Whitmire --

8 SEN. WHITMIRE: Sure.

9 SEN. FRASER: -- that you can prove you
10 are who you say you are before you vote, it's a very
11 simple concept.

12 SEN. WHITMIRE: Except, Senator Fraser,
13 the unintended consequences that you're going to
14 disenfranchise people that have not been able to acquire
15 these cards, and that's what I want to spend a few
16 moments on. Walk me through a real life example of how
17 a senior citizen in my district is going to acquire that
18 card. Do they do it by mail? Do they have to do it in
19 person? What's the process?

20 SEN. FRASER: Senior citizens over --

21 SEN. WHITMIRE: Give me a real life.
22 Don't say, "We're going to provide it." Let's break
23 down what an 86-year-old lady in my district, never been
24 required to have one, how is she going to get her card?

25 SEN. FRASER: She would vote under current

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1 law because she's exempt.

2 SEN. WHITMIRE: You've given her an
3 exemption. Does she have to prove, that day, her age?
4 I mean, Troy --

5 SEN. FRASER: You can ask that question of
6 the Secretary of State. But I'm assuming --

7 SEN. WHITMIRE: Well, you're the author.
8 And let me just tell you, like I said, we're all against
9 fraud. As elected officials, it's in our own personal
10 self-interest to have honest elections with the highest
11 integrity. We're doing it for the people that we
12 represent as well. So that's not the issue, are we for
13 or against fraud? It's the implementation, it's the
14 disenfranchisement, Troy, that we're fighting for and
15 what we've been fighting for, for the last couple of
16 years. Tell me how we're going to address the
17 unintended consequences of someone not being able to
18 vote on election day, because I know you don't want
19 that. And I --

20 SEN. FRASER: I was sent down here by the
21 people of my district to represent their views. The
22 polling of my district shows that it's almost 90 percent
23 of the people in favor of it.

24 SEN. WHITMIRE: Okay.

25 SEN. FRASER: The district that you

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1 represent, I think if you poll in that district -- and I
2 have used some polling that shows close to the same
3 number -- that say that when they're asked, "Do you
4 think you should have to show a photo ID?" and they say
5 yes.

6 SEN. WHITMIRE: And my --

7 SEN. FRASER: So my answer is, we need to
8 pass this, because the people in our district --

9 SEN. WHITMIRE: Well --

10 SEN. FRASER: -- believe that they should
11 show a photo ID.

12 SEN. WHITMIRE: First of all, I don't
13 govern by poll. And if I was at a town hall meeting and
14 I walked through, after they've said they're for voter
15 ID, then I start talking about the implementation of it,
16 they start being just as concerned as I am. So I want
17 to know how people are going to acquire these cards.
18 Forget the 86-year-old. Let's go to a 56-year-old
19 person. How do they acquire the card? Are you familiar
20 in Houston it takes two to three hours to get a driver's
21 license at the DPS office?

22 SEN. FRASER: John, I was about to ask
23 you, you know, ask you your age, but I know your age.
24 We're both 61. A 61-year-old person in our age group,
25 is it going to be a real problem for you and I to drive

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1 down to the DPS to get --

2 SEN. WHITMIRE: Well, see, that's what's
3 so sad about this discussion. You're not putting
4 yourself in the shoes of someone who doesn't have the
5 means that you and I have, they have to depend on
6 someone else for transportation. They may not have any
7 resources. How is a 56-year-old person in Houston,
8 Texas, going to acquire this card --

9 SEN. FRASER: We are not changing --

10 SEN. WHITMIRE: -- no driver's license.

11 SEN. FRASER: We are not changing the
12 mail-in ballot. And if someone has a reason that they
13 need to vote by mail --

14 SEN. WHITMIRE: On a mail-in ballot, how
15 do you prove -- that's early voting. How do you verify
16 who you are in that instance?

17 SEN. FRASER: I'm sure the Secretary of
18 State would be glad to answer that.

19 SEN. WHITMIRE: Okay. But that's not what
20 we're talking about. We're talking about on election
21 day, a person in Houston wants to vote, how do they
22 acquire the voter ID, photo ID?

23 SEN. FRASER: The DPS and the Secretary of
24 State will both be here, and I'm sure they will be glad
25 to answer that question.

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1 SEN. WHITMIRE: Troy, you're proposing
2 this. And before we go forward, I would like to know,
3 do you have to go to the DPS office? Do you order it by
4 mail? That's a critical concern of all of us that are
5 voting "No" against this bill. And I don't --

6 SEN. FRASER: Senator, did --

7 SEN. WHITMIRE: -- think you want to
8 disenfranchise anybody, but I'm afraid that there's
9 unintended consequences that you have not envisioned.

10 SEN. FRASER: Did another senator advise
11 you of what you had to do to go down to the DPS office
12 to get your driver's license?

13 SEN. WHITMIRE: Well, we're not talking
14 about me. We're fortunate; you and I are fortunate. We
15 probably don't have to wait in lines. In Houston.
16 Texas --

17 SEN. FRASER: There are 15 million drivers
18 in Texas. Of the 31 Senate districts, I think that
19 would mean there's about 500,000, I believe, in my
20 district. And I don't think I've got a one of them that
21 I instructed on how to go down and get a photo ID.

22 SEN. WHITMIRE: Okay. Well, let me just
23 tell you about the DPS operations in Harris County. A
24 working person cannot go by and get their license
25 renewed on their lunch hour, before work or after work,

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1 because literally it's a two to three-hour wait. So how
2 do you add this new group of participants that have to
3 show up at a DPS office to get a voter ID.

4 SEN. FRASER: We have someone coming from
5 the DPS. I think you can ask that question or
6 I'll yield to Senator Williams.

7 SEN. WHITMIRE: I'm not sure if they're --
8 I think you as the sponsor ought to explain that.

9 SEN. FRASER: The bill that I'm laying out
10 is very clear, that it complies with the Supreme Court
11 ramification and it also has been cleared by the
12 Department of Justice.

13 SEN. WHITMIRE: Okay. So you don't know.
14 Is that your answer?

15 SEN. FRASER: I said we've got resource
16 witnesses that are coming. I'm not an expert in that
17 area. We do have an expert coming, and they'll be glad
18 to answer your question.

19 SEN. WHITMIRE: The DPS folks will have to
20 publicly say at Gessner and I-10 or at Tacoma and 290,
21 two sites in my district -- and I complained and asked
22 for more resources -- it's a two- to three-hour wait,
23 Governor Dewhurst, to get your driver's license renewed.
24 So you can't even go over there on your lunch hour and
25 get a driver's license, and now you want the folks to go

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1 over there and, I assume, wait in line to get a voter
2 ID.

3 Let me ask you another question about the
4 education that you're going to provide. Is it going to
5 be done in bilingual materials with a --

6 SEN. FRASER: I'm sure the Secretary of
7 State will be glad to answer that question.

8 SEN. WHITMIRE: Well, you're the sponsor.

9 SEN. FRASER: And as the sponsor, I
10 invited the Secretary of State as a resource witness, to
11 make sure we have someone that knows the answer to that
12 particular question.

13 SEN. WHITMIRE: One also is, your bill
14 provides same-day registration. Now, according to you,
15 you're going to have a fail-safe system that you'll know
16 who is showing up to vote. Are you open to the idea
17 that someone who has gotten motivated in the last 30
18 days, maybe the days just leading up to the election,
19 with this secure form of ID can show up on election day,
20 prove who they are and ask to vote?

21 SEN. FRASER: The bill does not provide
22 for same-day registration.

23 SEN. WHITMIRE: I'm sorry. What?

24 SEN. FRASER: The bill does not provide
25 for same-day registration.

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1 SEN. WHITMIRE: Would you be amenable to
2 us proposing it and --

3 SEN. FRASER: The bill does not provide,
4 as I -- I filed the bill, and the bill does not provide
5 for same-day registration.

6 SEN. WHITMIRE: Okay. Thank you for your
7 answers.

8 CHAIRMAN DUNCAN: Senator Uresti.

9 SEN. URESTI: Thank you, Mr. Chairman.
10 Would the gentleman yield for some
11 questions?

12 SEN. FRASER: I would love to yield.

13 SEN. URESTI: Thank you, Senator Fraser.
14 I want to ask you a few questions, kind of to follow on
15 what Dean Whitmire asked you specifically regarding the
16 DPS offices. And I don't know if they're here yet or
17 not. But particularly about my district, you know how
18 large it is. It goes from San Antonio all the way to
19 El Paso, and it has 23 counties, as I'm sure you're
20 aware, Senator Fraser.

21 And one of the concerns that I have is
22 that between here and El Paso -- and you may know this.
23 If not, I would like to let you know and the other
24 members know -- well, let me ask you this: Do you know
25 how many of my 23 counties do not have a DPS office?

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1 SEN. FRASER: Senator, you know, the start
2 of your description of this, I'm very familiar with the
3 district, because I used to represent a lot of it. And
4 that area between -- going out toward El Paso, I've had
5 that when I was a state rep. It was in my state
6 representative district. And then part of your other
7 district was when I was a senator. So, yes, I'm very
8 familiar with it.

9 The answer to your question that you're
10 asking about driver's license location, we'll have
11 somebody from DPS here, and I'm sure they'll be glad to
12 answer that question for you.

13 SEN. URESTI: Well, in the meantime,
14 Senator Fraser, let me let you and the members know.
15 There are eight counties in my district out of the 23
16 that do not have a DPS office. Loving County has no
17 office, Crockett County, Hudspeth County, Jeff Davis
18 County, Kinney County, Real County -- we had some good
19 folks here yesterday representing Real County -- and
20 Terrell County have their offices temporarily closed.
21 And, Senator Fraser, do you know how many people live in
22 those counties? There are 47,000 people that live in
23 those counties in my district that don't have a DPS
24 office.

25 SEN. FRASER: Do you know how many in

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1 those counties drive that have a license?

2 SEN. URESTI: No, I don't. Do you know,
3 Senator?

4 SEN. FRASER: I don't, no. I have been
5 out in those counties and I see people driving. I'm
6 assuming they have a driver's license.

7 SEN. URESTI: Well, it makes it even more
8 difficult if they don't have a driver's license and they
9 need to get a driver's license or a photo ID to vote.
10 How are they going to drive long distances in order to
11 retrieve that -- or obtain that ID?

12 SEN. FRASER: Again, the data we've been
13 shown is that people registered to vote -- and I guess I
14 would like to look in your area -- but about 90 percent
15 of the people that are coming in show their driver's
16 license when they register to vote.

17 You know, yes, there's -- it looks like
18 there's a lot of people or, you know, 47,000, but I'm
19 assuming that the bulk of those, probably a lot of them
20 have IDs.

21 SEN. URESTI: Well, that's an assumption,
22 Senator Fraser, that you're making that I don't have the
23 luxury of making on behalf of those 47,000 people. But
24 in addition to that, Senator Fraser and members, there's
25 another 70,000, another 70,000 constituents in my

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1 district that have access to only partial or sporadic
2 service; for example, Senator Fraser, the first Tuesday
3 of each month from 9:00 to 4:00. So they have one day a
4 month, members, to go and get an ID, and that's between
5 the hours of 9:00 to 4:00.

6 Well, if you can't get off of work that
7 one month -- that one Tuesday and that's the only day
8 it's open, what are my constituents supposed to do,
9 Senator Fraser?

10 SEN. FRASER: I think that's probably a
11 question you would want to ask the DPS. Or, if you
12 would like, I will yield to Senator Williams.

13 SEN. URESTI: But this isn't their bill;
14 this is your bill, Senator Fraser.

15 SEN. FRASER: And that's the reason I
16 bring in, you know, knowledgeable witnesses, expert
17 witnesses that can answer these questions. We have
18 someone from DPS that will be here. Or Senator
19 Williams, that's in the area of his committee.

20 SEN. URESTI: So they're going to answer
21 my question as to what should my constituents do if they
22 can't get off of work that one Tuesday of the month in
23 order to get their ID to vote? That's what you're
24 saying, they're going to answer that question?

25 SEN. FRASER: You'll just have to ask

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1 them.

2 SEN. URESTI: This is your bill, Senator
3 Fraser. I'm asking you, because I need to go back to my
4 district and tell them that they have to get a photo ID
5 in order to vote. And their first question to me is
6 going to be, "Well, Senator Uresti, you know that our
7 DPS offices are closed," or "We have no DPS office in
8 our county," or "It's only open on one Tuesday a month."
9 What am I supposed to do, Sen. Uresti"?

10 SEN. FRASER: Again, the DPS will be here.
11 You can outline the problem, and you can outline the
12 problem with Senator Williams, and you're free to ask
13 them those questions.

14 SEN. URESTI: Sen. Fraser, in addition to
15 those counties that have no DPS offices, many of my
16 constituents in several other counties are going to have
17 to travel long distances in order to get an ID. For
18 example, my constituents in Crockett County, Ozona, will
19 have to travel 163 miles round trip to San Angelo to get
20 to the nearest DPS office. And if you live in Sanderson
21 in Terrell County, you will have to travel 170 miles
22 round trip to get to Fort Stockton. If you live in
23 Sierra Blanca in Hudspeth County, you have to travel
24 176 miles to get to El Paso in order to get to the DPS
25 office. Did you know that, Sen. Fraser?

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1 SEN. FRASER: I'm very aware of that,
2 that, you know, the district I represented, there were
3 bus routes that were 80 to 90 miles each way for kids to
4 attend public school, because the people lived out in
5 the country.

6 SEN. URESTI: And would you agree with me,
7 then, that that's going to be a challenge for those
8 folks?

9 SEN. FRASER: We're not changing the early
10 voting mail-in ballot rules, and that will still be an
11 option for people.

12 SEN. URESTI: So they don't need an ID to
13 vote by mail?

14 SEN. FRASER: By mail? Again, you can ask
15 the Secretary of State. We're not addressing the
16 mail-in ballots. The Secretary of State will be here.
17 Someone from their office, you can ask that question.

18 SEN. URESTI: Well, let me just mention a
19 few more of my counties. If you live in Van Horn in
20 Culberson County, you have to travel 200 miles round
21 trip to Marfa, which is the nearest DPS office. If you
22 live in Pecos, which is in Reeves County, you have to
23 travel 143 miles to Fort Stockton. If you live in
24 Rocksprings in Edwards County, it's 152 miles round trip
25 to Del Rio, Sen. Fraser. And finally, if you live in

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1 Medina, which is in Hondo, if you live in Hondo, which
2 is in Medina County, you have to travel 84 miles.

3 And so again my question; Sen. Fraser --
4 if you can't answer it, just let me know -- what am I
5 supposed to tell my constituents -- because this is your
6 bill; it's not my bill -- how are they supposed to get
7 their Texas ID if their DPS office is --

8 SEN. FRASER: Senator, if I were you, when
9 the DPS comes up, I would ask them questions and say,
10 "Is there a way that we could do something like a
11 temporary van coming through to accommodate those
12 people?" And if I were the senator from that area, that
13 probably would be a question I would ask the DPS. But
14 again, they're coming forward, and that's a question I
15 think that is appropriate of the DPS of, you know, "How
16 do we make sure that we accommodate those people?"

17 SEN. URESTI: Well, it's a great
18 suggestion, Senator Fraser. But what if DPS says, "We
19 can't do that. It's not in the budget, the \$2 million
20 that we're being allocated"? So then what do I tell my
21 constituents?

22 SEN. FRASER: Well, you're assuming the
23 answer before you ask the question of the DPS.

24 SEN. URESTI: Well, you're assuming that
25 they're going to say that they will be able to do it.

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1 SEN. FRASER: No. I'm assuming that the
2 DPS is going to come up and you'll have the opportunity
3 to ask them.

4 SEN. URESTI: Okay. So then let's assume
5 the DPS spokesperson says, "Great idea that Senator
6 Fraser has. We can do that," there's going to be a cost
7 associated with that. Isn't that correct? That's not
8 included in the fiscal note of \$2 million?

9 SEN. FRASER: Again, I'm not advised, I
10 think the DPS could advise you on that, or
11 Sen. Williams.

12 SEN. URESTI: Do we know when they're
13 going to be available to answer or --

14 SEN. FRASER: I think they're on hand.
15 And as soon as we complete these questioning, I think
16 we'll going to bring -- you know, as soon as we start
17 the -- well, I think that the plan -- I'm not speaking
18 for the Chair, but I believe we're going to allow
19 questions from members, then we're going to have invited
20 guests. And then once we start the public testimony,
21 they would be ready to come up, and I think they'll
22 answer any questions you've got.

23 SEN. URESTI: Senator Fraser, let me ask
24 you a few more questions, if I may, please. And I want
25 to be clear. So as I understand it, in order to vote

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1 with your bill, if your bill passes, you can have a
2 voter registration card and a Texas ID or a driver's
3 license, and you're able to vote with both of those
4 documents. Correct?

5 SEN. FRASER: Actually, you don't -- if
6 you go in and you're on the voter roll and you have a
7 driver's license, they'll allow you to vote, because I
8 know that's -- you know, I do that now.

9 SEN. URESTI: So you don't need your voter
10 registration card, is my real question? If you have a
11 valid Texas ID or a valid Texas driver's license, then
12 you do not need --

13 SEN. FRASER: I think probably if you'll
14 ask the Secretary of State. But my understanding is
15 that you just have to identify yourself with a photo.
16 And if you're on the voter roll and you're at the
17 correct voting location, you live in that precinct and
18 you're on that roll and you show them your ID, I believe
19 you'll be allowed to vote.

20 SEN. URESTI: And that's my question, but
21 I want to be specific about it. So if I have a valid
22 photo ID or a valid Texas driver's license and I'm on
23 the rolls, then I do not need a voter registration card.
24 Correct?

25 SEN. FRASER: To my understanding, the

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1 answer is yes. But I still think I would ask that
2 question of the Secretary of State.

3 SEN. URESTI: Well, I'm pretty sure that's
4 correct. That's what I read. Then why do we need a
5 voter registration card, then? Why are we going to need
6 voter registration cards after your bill passes?

7 SEN. FRASER: Good question. Why don't
8 you ask that of the Secretary of State. It might be
9 a -- you could offer that as a cost-saving measure.

10 SEN. URESTI: But it's your bill, Senator
11 Fraser. I mean --

12 SEN. FRASER: All my bill is addressing is
13 the photo identification when you vote. You know,
14 Carlos, when you walk in and they say, "Senator Uresti,
15 you know, we'll need some identification," and even
16 though you're on the roll, you're going to have to show
17 a photo ID.

18 SEN. URESTI: And that's correct, and I
19 agree with you, Senator Fraser. But the result will be,
20 you do not need your voter registration card, then?

21 SEN. FRASER: That is my understanding.
22 But, again, I would ask the Secretary of State.

23 SEN. URESTI: Okay. That's all the
24 question I have for now, Mr. Chairman.

25 Thank you, Senator Fraser.

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1 CHAIRMAN DUNCAN: Thank you, Senator.
2 Senator Gallegos.

3 SEN. GALLEGOS: Senator Fraser, the
4 questions that you're being asked and are asking us to
5 wait for resource witnesses, I'm concerned that we're
6 not getting answers from the author of the bill. Now,
7 Senator Huffman just showed us a box with testimony and
8 questions and supposedly answers that were asked two
9 years ago. And a lot of the questions that you're
10 referring to that we get answers from resource witnesses
11 weren't answered at that time.

12 I mean, we just want an assurance here
13 that whatever was in that box that Senator Huffman had
14 did not have all the questions answered. I heard what
15 she told Senator Davis, but a lot of the questions that
16 you're being asked today were the same questions that
17 were asked two years ago and have never been answered.

18 SEN. FRASER: Senator, I stayed up very
19 late last night reading the deposition of the questions
20 that were asked, that you asked me last year, the
21 answers. And I guess if you're concerned about that,
22 maybe you should get that deposition and you read it and
23 that way you can feel more comfortable about what was
24 asked and what was answered. Have you read the
25 deposition?

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1 SEN. GALLEGOS: There will be plenty of
2 time for that. But I'm just asking you, as the author
3 of the bill. You know, I mean, you are laying it out,
4 and you're trying to explain it. And you're asking us
5 to ask resource witnesses on questions, especially the
6 questions that Senator Uresti had. And it concerns me
7 that before we even, you know, lay it out and go forward
8 with a bill, that the people that are here listening, at
9 least they have the right to -- they leave, they have
10 the right to know these questions, especially those
11 questions that Senator Uresti just got through asking
12 you. And it concerns me that we cannot get answers at
13 the time that the bill is laid out, before we even go
14 forward with the witnesses. And that just concerns me,
15 that we're not getting answers.

16 SEN. FRASER: I think you can take a lot
17 of comfort in the fact that we will not ask you to vote
18 for the bill until we bring up an expert witness and you
19 will be allowed to ask those question and get the answer
20 you're looking for.

21 SEN. GALLEGOS: Well, I mean, we did that
22 two years ago. And some of the questions that the box
23 that Senator Huffman had still doesn't have answers in
24 that box that she had that's going to be introduced as
25 Exhibit No. 1.

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1 SEN. FRASER: Have you read all the data
2 that was in the box?

3 SEN. GALLEGOS: I have not read it; I have
4 not read it. But, you know, I would think that,
5 especially some of the questions that I asked and I'm
6 fixing to ask you, you know, that if those answers
7 aren't in that box that Senator Huffman introduced as
8 Exhibit No. 1. I just want to make a point that it
9 concerns me that these questions these senators have
10 about their districts are not being answered. I just
11 wanted to make that point.

12 And on another question, Senator, on the
13 fiscal note -- and I know that Senator Watson brought it
14 up -- it says that it's \$2 million to implement. Now,
15 here is my concern on that, is that Texas is ranked
16 No. 2 nationally in this country as far as population.
17 Missouri is ranked 19th. Yet, the numbers that I'm
18 looking at on the costs that the Secretary of the State
19 of Missouri on implementing -- and Missouri only has
20 5.9; we have 25 million -- Missouri has 5.9 in
21 population, and the Secretary of the State of Missouri
22 is going it's going to cost \$6 million just to implement
23 their voter ID program, and that's just the first year.
24 The second year, another \$4 million.

25 Now, with only 5.9 in population, and I'm

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1 looking at Texas that has 25 million, now, what kind of
2 methodology is the Secretary of State using in Missouri
3 as opposed to the Secretary of State in Texas? To me,
4 that math -- you know, I'm not an expert in math, but I
5 can tell the difference between 5.9 and 25 million to
6 implement a voter ID bill, you know, that obviously
7 there's something wrong here in the numbers. Can you
8 tell me the difference in 6 million for Missouri and
9 2 million in implementing the cost of voter ID in Texas?

10 SEN. FRASER: I'm not a citizen of
11 Missouri, so we don't have access to that information.
12 And you and I have been in the Legislature a long time,
13 and you're very aware that your fiscal note -- whenever
14 you file a bill, you get a fiscal note with a bill, they
15 look at the cost, and this is the cost that's been
16 estimated.

17 SEN. GALLEGOS: You know, Senator, I'm
18 concerned here that this number that has been laid out
19 in this bill -- you know, and we do have -- and I don't
20 know if the rules if we have the Ogden amendment on this
21 bill where you're looking at one number and then all of
22 a sudden, before we start implementing the bill, it's
23 going to cost us \$30 million to implement the bill by
24 the numbers -- if we use the formula being used by
25 Missouri that has only 5.9 in population. Now, that

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1 really concerns me. \$30 million, Senator Watson could
2 use that here and stop the closure of those Austin
3 Independent School District schools that are being
4 closed. They could use that \$30 million that I see as
5 opposed to what I'm seeing as the formula in math that
6 Missouri used.

7 Now, it concerns me that the fiscal note
8 that's laid out in this bill is misleading, according to
9 the other states that are using more money and less
10 population to implement their voter ID bill. That
11 concerns me, Senator. And, I mean, is there somebody
12 that can answer that question for me, why it costs so
13 little on a state that has 25 million in population as
14 opposed to another state that has 5 million and it's
15 triple the cost?

16 You know, I mean, that concerns me, and
17 that should concern you, when you're given a number, and
18 we're telling the people in the audience here, the
19 taxpayers, it's only going to cost us \$2 million. And
20 we have 25 million in population; Missouri only has
21 5.9 million, and it's costing them \$6 million to
22 implement voter ID. Now, you know, that really concerns
23 me. And I don't want to mislead the public in any form
24 or fashion that it's only going to cost us \$2 million to
25 upstart voter ID when that is a misleading number. And

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1 that concerns me, Senator, and it should you. If this
2 number is misleading, now who can answer that question
3 for me?

4 SEN. FRASER: I think you're very aware of
5 the fact that this number comes from LBB. I believe
6 they probably called the Secretary of State and asked
7 for that number. So if you have a concern about it,
8 probably you should ask the LBB and/or the Secretary of
9 State. I believe the Secretary of State is going to
10 tell you there are HAVA funds that they're requesting
11 that would possibly even eliminate that \$2 million.

12 SEN. GALLEGOS: Well, I mean, I heard you
13 tell Senator Watson about the HAVA funds. I'm just
14 saying on straight-up, straight-up implementation, that
15 \$2 million as opposed to \$6 million in Missouri, you
16 know, that's without HAVA funds, too. I'm saying that
17 when you come down to it, if that number -- if, when the
18 implementation starts, instead of \$2 million it's
19 \$30 million, then, you know, I'm concerned.

20 I believe that the Ogden amendment should
21 go on there and say, you know, if it's going to be over,
22 over what you're showing on the fiscal note, that it
23 shouldn't be implemented if it's going to cost that type
24 of money. That's a lot of money; that's a lot of money
25 to implement voter ID when you're just saying -- well,

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1 not you -- but the fiscal note on this bill is saying
2 only two million bucks. Now, you know, that just
3 concerns me, Senator. And I guess I'll ask that
4 question when the proper resource witness comes up.

5 Senator Fraser, the other question I had
6 was similar to Senator Uresti's question. Now, two
7 years ago, I put maps up on one of my amendments where
8 the City of Houston has no DPS offices within the 610
9 loop. The City of Fort Worth, I believe -- let me see
10 here. Let me look at my notes here.

11 The City of Fort Worth I think doesn't
12 have any either inside -- what is that loop? 82,
13 182? -- 81. And Dallas, Senator West, only has one --
14 only has one inside the city, only has one DPS center
15 inside the city. And it concerns me, if we're going to
16 mandate Texans to get a photo ID and you have no place
17 to send them to, especially inside the loop and
18 especially those without transportation, and if they
19 can't get to it on a bus route, to one of the DPS
20 centers --

21 SEN. FRASER: Senator, if you have
22 evidence that someone in your district has the inability
23 to get a driver's license, I wish you would bring that
24 forward.

25 SEN. GALLEGOS: I'm talking about your

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1 bill that mandates a photo ID. And if we're going to
2 mandate Texans, then we should at least allow them the
3 opportunity to have places where they can get it, where
4 they don't have to travel 150 miles, like Senator Uresti
5 just said. That's my concern, especially the elderly
6 that don't have any and they're going to have to get a
7 photo ID, that that person is going to have to travel
8 150 miles, even from their house inside the loop, those
9 people that don't have cars and they have to do public
10 transportation.

11 Now, I'm looking at the map in the City of
12 Houston, the bus route where it takes them three buses
13 just to get close to a DPS center from anywhere inside
14 the 610 loop. That really concerns me, Senator, on
15 this, and hopefully that -- Senator Fraser?

16 SEN. FRASER: I'm with you.

17 SEN. GALLEGOS: Hopefully that you will
18 look at it and maybe in some of our amendments will take
19 that into consideration. I'm just telling you, you
20 know, what's in Houston, not in Horseshoe Bay where you
21 live. And, you know, that is really a problem that we
22 have, especially those of us that represent minority
23 communities like Senator Uresti and me and others on
24 this floor.

25 There is another issue, Senator Fraser,

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1 that I wanted to ask you. On driver's license, you
2 know, it says on a driver's license that's -- on a
3 driver's license that's pulled from somebody for
4 whatever reason, DPS gives you a temporary, and that
5 temporary is good for about 40 days or in some cases
6 when they've been stopped for a DWI or anything but
7 still have not gone through the legal process, they are
8 given a paper temporary license, and it says on that
9 paper that this is used for identification purposes.

10 Now, I guess my question to you would be
11 that if that is pulled -- and there's several thousands
12 of drivers, of Texans, that are using this paper ID
13 right now -- that if a driver's license is pulled for
14 whatever reason, that that DPS certification, paper
15 temporary license can be used as an ID to go vote.

16 SEN. FRASER: Senator, if you don't mind,
17 I'm going to yield to Senator Williams on that question.
18 If you don't mind, he'll answer that question for you.

19 SEN. WILLIAMS: Senator Gallegos, I had a
20 similar question of what you have as I visited with the
21 Department of Public Safety about this. And, in fact,
22 it had been a while since I had renewed my license. And
23 they now issue -- these temporary licenses actually have
24 a photo on the license, and it would be valid under
25 Sen. Fraser's bill as identification if you went to

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1 vote.

2 And, you know, in more detail, we could
3 get the Department of Public Safety to give you some
4 more detail on that. But now the temporary licenses
5 actually have a photo on the paper license that you're
6 referring to.

7 SEN. GALLEGOS: Well, Senator Williams,
8 I'm showing that 98,000 drivers right now have temporary
9 licenses without photo IDs.

10 SEN. WILLIAMS: Well, you know, I'm not
11 advised about that. I think we ought to get the
12 Department of Public Safety --

13 SEN. GALLEGOS: Well, I agree.

14 SEN. WILLIAMS: I'm told that these, you
15 know, temporary licenses you used to get when you were
16 in the process of renewing your licenses now have your
17 ID on them, your photo.

18 SEN. GALLEGOS: Senator Williams, I
19 understand what you just told me. But, you know, I've
20 known some folks that have had their license pulled and
21 have not gone through the process, and there is no photo
22 ID. All they're given is the sheet of paper that I have
23 right here that they're driving with, 98,184 that are
24 driving with this paper right here, no photo ID.

25 And it says -- it says here -- well, I'm

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1 not going to read it to you. Just trust me; you can
2 read it yourself. It says that this would be used for
3 identification purposes.

4 SEN. WILLIAMS: Well, thank you, Senator
5 Gallegos. And I'm glad that you raised this issue, and
6 we ought to ask the Department of Public Safety to clear
7 it up for us. Thank you.

8 SEN. GALLEGOS: That's why I brought it
9 up, Senator Williams and Senator Fraser. That's being
10 done on temporary suspended license, no photo ID. But
11 on the face of this sheet that DPS has given out, it
12 says that this is for identification purposes. I just
13 wanted to point that out. I do have an amendment that I
14 hope you will take, Senator, that alleviates almost
15 100,000 that we know of right now.

16 SEN. FRASER: Have you turned that
17 amendment in? If you get the amendments in so we get a
18 chance to look at them --

19 SEN. GALLEGOS: Sure.

20 SEN. FRASER: -- I think there's a better
21 chance for, you know, us to understand what you're
22 trying to do. So if you have an amendment, I would ask
23 you to turn it in.

24 SEN. GALLEGOS: Sure.

25 Thank you, Mr. Chairman.

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1 CHAIRMAN DUNCAN: Senator Davis.

2 SEN. DAVIS: Senator Fraser, will you
3 yield for some questions, please?

4 SEN. FRASER: If you will allow me one
5 second to get some better headsets on.

6 SEN. DAVIS: I was going to ask you if you
7 could hear me.

8 (Laughter)

9 (Brief pause)

10 SEN. FRASER: I will now yield.

11 SEN. DAVIS: Can you hear me okay, Senator
12 Fraser?

13 SEN. FRASER: Right now I am.

14 SEN. DAVIS: All right. A couple of
15 questions for you. You've talked earlier this morning
16 about both the Supreme Court opinion in the Indiana case
17 and also the Justice Department review of Georgia. Are
18 you aware that in each of those, there were particular
19 instances that made the acceptance of those particular
20 laws different than yours might be interpreted by those
21 same bodies?

22 SEN. FRASER: If you don't mind, we've
23 got, you know -- Senator Huffman, I think, is prepared
24 to, you know, answer legal questions. If you've got a
25 question about a -- do you have specific examples --

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1 SEN. DAVIS: Well, I would --

2 SEN. FRASER: -- that you would like to --
3 and we also, I believe, are going to have someone from
4 Indiana here this afternoon, and we're also going to
5 have an invited -- an attorney that will address that.
6 So if you have specific questions about that, that might
7 be the appropriate place.

8 SEN. DAVIS: Well, I'll read to you from
9 those in a moment. But let's start just by talking
10 about what's required on the Texas voter registration
11 application right now. Right now a person may put their
12 driver's license number or their social security number
13 on their registration application to become a voter in
14 the State of Texas. Correct?

15 SEN. FRASER: You've got the data. And I
16 think probably the best person to ask, and that's the
17 Secretary of State.

18 SEN. DAVIS: Well, I have it right here.
19 And there are some people who can't provide that
20 information, and there's another opportunity for that
21 person to attest to whom they are, to attest to the fact
22 that they're a legal citizen and not a felon who would
23 be prevented from voting. And I'm sure the Secretary of
24 State probably has a number that shows to us -- and we
25 will ask for this on the record today -- how many people

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1 fill out Section No. 9, the attestation clause, versus
2 the people who are able to fill out Section 8, and
3 what's the gulf between that. Are you aware what the
4 gulf is between those two numbers?

5 SEN. FRASER: I believe I know the section
6 you're talking about, but I actually would prefer you
7 ask that of the Secretary of State's office.

8 SEN. DAVIS: Okay. But I'm asking you.
9 Are you aware -- under your bill that you're proposing,
10 are you aware of what the gulf is, the gap is between
11 those two numbers, the people who are able to provide
12 their driver's license or social security number versus
13 those that fill out the attestation clause, because they
14 don't have either?

15 SEN. FRASER: When you ask the Secretary
16 of State that question, I will be listening very
17 carefully to make sure that I hear what they say.

18 SEN. DAVIS: And would you agree that it's
19 probably the case that if I fill out Section 9, the
20 attestation clause, because I can't fill out Section 8
21 with either a social security number or my driver's
22 license number, that I will probably be impacted by a
23 bill that's going to require what your bill requires in
24 order for me to vote?

25 SEN. FRASER: Again, that would be a good

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1 second of the Secretary of State.

2 SEN. DAVIS: Well, I'm asking you as the
3 bill's author. Are you concerned that there will be an
4 impact to those people who currently cannot fill out
5 Section 8 but can only fill out the attestation clause
6 in Section 9?

7 SEN. FRASER: And again, you're making a
8 reference to Section 8 that -- you know, I'm sorry. I
9 don't -- I'm not -- I don't know what you're referring
10 to. The Secretary of State is the expert in that area.
11 And when you ask that question, I'll be listening and
12 will, you know, listen to the response.

13 SEN. DAVIS: Earlier you talked about the
14 Executive Director from the Carter-Baker Commission, and
15 you cited a statistic, that only 1.2 percent of
16 Americans would be affected by a requirement that a
17 photo ID be required. Correct?

18 SEN. FRASER: I did make that reference,
19 yes.

20 SEN. DAVIS: Are you aware that that was
21 limited to a study of only three states, and Texas was
22 not one of them?

23 SEN. FRASER: Yes, because at that time
24 the Carter-Baker was looking at the states that had
25 issued a photo ID.

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1 SEN. DAVIS: And would you agree that it
2 may be the case that if I live in one of those three
3 states and it's easier for me to get a driver's license
4 in that state, then I may have a lower percentage of
5 citizens who don't have a photo ID than another state
6 might have where it's more difficult to get a driver's
7 license?

8 SEN. FRASER: I'm not advised.

9 SEN. DAVIS: Are you aware that even in
10 those states, in the 1.2 percentage number, there was a
11 disparate impact that was found on elderly and women and
12 African-Americans in terms of people who actually had
13 the eligible photo ID that's counted in that percentage?

14 SEN. FRASER: I'm not advised.

15 SEN. DAVIS: Does it concern you at all
16 that the bill that we are looking at today, the bill
17 that you filed, might have a disparate impact on women,
18 minorities and senior citizens, possibly disabled people
19 in the State of Texas?

20 SEN. FRASER: The bill that we're filing
21 today I believe will be approved by the U.S. Supreme
22 Court, and also the bill in Georgia was precleared by
23 the Justice Department. So I believe our bill will
24 comply with both of those.

25 SEN. DAVIS: Okay. Well, I'm going to

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1 read to you from the Supreme Court opinion, the U.S.
2 Supreme Court opinion when it was reviewing the Indiana
3 law.

4 They acknowledged that there is evidence
5 in the record, in fact, of which we may take judicial
6 notice that indicates that a somewhat heavier burden may
7 be placed on a limited number of persons by virtue of
8 the photo ID requirement. They include elderly persons
9 born out of state, persons who, because of economic or
10 other personal limitations, may find it difficult either
11 to secure a copy of their birth certificate or to
12 assemble the other required documentation to obtain a
13 state-issued ID, homeless persons and persons with a
14 religious objection to being photographed.

15 "If we assume, as the evidence suggests,
16 that some members of these classes were registered
17 voters when the Indiana law was enacted, the new
18 identification requirement may have imposed a special
19 burden on their right to vote. The severity of that
20 burden is, of course, mitigated by the fact that if
21 eligible voters without photo ID may cast provisional
22 ballots, that will ultimately be counted."

23 Are you aware that in the State of
24 Indiana, I can cast a provisional ballot, and the
25 Supreme Court made its decision in terms of whether the

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1 burden was constitutionally acceptable, based on the
2 fact in Indiana, I can cast a provisional ballot, and if
3 I attest to the fact that I'm unable to pay for the cost
4 of getting the underlying documents to receive a photo
5 ID, that I do not, in voting my provisional ballot, have
6 to show a photo ID?

7 SEN. FRASER: Senator, my observation is
8 that what you've read from the Supreme Court opinion is
9 a portion of it, but it's a snippet. And it also
10 continues to say that these do not present an undue
11 burden for the person to vote.

12 SEN. DAVIS: That's correct. They said
13 they did not believe that it created a constitutionally
14 prohibited burden, based on the fact that voters in the
15 State of Indiana have the opportunity to vote a
16 provisional ballot even if they don't have a photo ID,
17 if they can show that they were unable to get one,
18 either because of their circumstances as an elderly
19 person or because they're indigent. Does your bill
20 provide a special exception for people under those
21 circumstances to vote a provisional ballot?

22 SEN. FRASER: The bill that I'm moving
23 forward I believe will be approved by the U.S. Supreme
24 Court and will be precleared by the Department of
25 Justice.

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1 SEN. DAVIS: Okay. Let's look at the
2 things that are required in your bill in terms of a
3 photo ID. And I appreciate what you said earlier. I
4 think it's true. I think if you ask anybody on the
5 street that you might walk up to at this moment in time
6 whether they think it's a good idea for someone to show
7 a photo ID in order to vote, they would probably agree.
8 What they might not understand in agreeing with that,
9 though, are what the requirements are going to be in the
10 State of Texas in order for them to comply with that
11 particular requirement, and they also might not
12 appreciate the challenge and the difficulty that some
13 people may have in supplying that.

14 SEN. FRASER: Senator, this is not rocket
15 science. The people of your district understand very
16 clearly that when they walk into that voting booth, they
17 have to show a photo ID proving they are who they say
18 they are. The people in Fort Worth, that area, I have
19 the polling data -- I believe the number is about --
20 around 90 percent. And of that, that's Republicans and
21 Democrats. So I believe the people that elected you,
22 sent you down here, have said, "We believe that when you
23 go in to vote, you should show identification to prove
24 you are who you say you are." It's a very, very simple
25 concept.

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1 SEN. DAVIS: Are you aware that in the
2 Indiana law and also in the Georgia law, people are
3 allowed to come and vote with a state-issued student ID
4 if they're attending a state university?

5 SEN. FRASER: I'm not advised.

6 SEN. DAVIS: And your bill does not allow
7 that kind of a photo ID to be used. Is that correct?

8 SEN. FRASER: We have four forms of ID
9 that we have laid out as acceptable. Those are all
10 recognized acceptable forms of identification that we
11 have recommended.

12 SEN. DAVIS: And it does not include that,
13 for the record. Are you also aware that in the Indiana
14 law and in the Georgia law, the ID can be expired and
15 still be utilized, but under the requirements in your
16 bill, that cannot occur?

17 SEN. FRASER: You know, I think our belief
18 is that someone should have a valid ID that has not
19 expired. "Expired" implies it is not valid, and we in
20 Texas believe you should have a valid ID.

21 SEN. DAVIS: What will I do if my driver's
22 license expires the day before I go to vote and I'm not
23 aware of it until I show up at the polling place?

24 SEN. FRASER: And I would ask you, what
25 would happen if you were driving to the polling place

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1 with an invalid driver's license? What would happen?

2 SEN. DAVIS: I would get a ticket, but I
3 wouldn't be denied my constitutional right to vote as a
4 legal citizen of the United States.

5 SEN. FRASER: You would not be denied your
6 right to vote. Under this law and under this bill, as
7 you know, if you walk in with an invalid driver's
8 license, you would be allowed to vote. It would be a
9 provision vote, and you would be allowed six days to go
10 back to the place that issues driver's license, get a
11 valid license and come back, and your vote would be
12 counted.

13 SEN. DAVIS: Well, we had a conversation
14 about that earlier in terms of how difficult and
15 challenging -- for some people it actually is -- to be
16 able to comply with that requirement. But let me ask
17 you for a moment, if I bring in a state-issued Texas
18 driver's license and it expired 30 days ago or 60 days
19 ago or a year ago, how does that fail to prove that I'm
20 the person on the card, simply because it has expired?

21 SEN. FRASER: Well, I would ask you the
22 same question. If your driver's license expired 30 days
23 ago, is it acceptable to the patrolman that just stopped
24 you? It's expired.

25 SEN. DAVIS: I'm asking you the question.

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1 The reason that we are advocating or you are advocating
2 for photo ID is so that the person who is receiving my
3 ballot can verify that I am the person casting it.

4 Correct?

5 SEN. FRASER: Yes.

6 SEN. DAVIS: And if my driver's license is
7 expired but it's a state-issued driver's license and it
8 has my name and it has my picture on it and my name
9 matches what's on the registrar's -- the precinct rolls,
10 how does that fail to prove that I'm who I am?

11 SEN. FRASER: I think we go back to the
12 word "valid," do you have a valid Texas driver's
13 license?

14 SEN. DAVIS: How does it fail to prove
15 that I am who I am?

16 SEN. FRASER: You don't have a valid Texas
17 driver's license.

18 SEN. DAVIS: And as I said earlier, in
19 Georgia and in Indiana, under the laws that were deemed
20 acceptable by the Supreme Court and the courts in
21 Georgia received preclearance by the Department of
22 Justice, each of those allows some acceptance of expired
23 IDs.

24 I want to talk a little bit about how
25 difficult it is, because I really think every one of us

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1 in this room needs to appreciate the burden that people
2 have when they're being asked to supply some of the
3 documentation that's required in your bill. And I've
4 put together a little chart that I just want to go over
5 very quickly. I won't belabor the point.

6 Can you bring it closer over here, Dan, so
7 I can actually point at it?

8 Thank you.

9 Now, each of us, whether we're in the
10 Senate or the House of Representatives in the State of
11 Texas, we each bring unique backgrounds and perspectives
12 to the table. And because of our unique backgrounds and
13 perspectives, we're able to represent people in ways
14 that hopefully contribute to a better understanding for
15 each of us in terms of how we can best serve them.

16 Senator Fraser, I came from a fairly
17 challenged background before I arrived on the floor of
18 the Texas Senate. I had the opportunity to receive an
19 incredible education that ultimately allowed me the
20 privilege of standing here and having a conversation
21 with you today. But there was a time when I was
22 indigent, there was a time when I was a single mother
23 and I was working a full-time job during the day in
24 Dallas, from which I had to leave my house at 6 o'clock
25 in the morning every morning to arrive at, and I worked

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1 a part-time job four nights a week waiting tables.

2 If I had been required during that point
3 in time to show some of the ID requirements that are
4 being proposed under your bill, I have to admit to you
5 that I would have been quite challenged in being able to
6 accomplish it. I had gotten divorced, so my name was
7 different on my state ID than was on the registration
8 rolls. And so because of that, I would have had to go
9 through the process of trying to get a new state ID.
10 And, honestly, with my schedule, it would have been
11 fairly impossible for me to achieve it.

12 I think it's pretty easy for us to stand
13 on the Senate floor where we are today and the shoes
14 we're in today and say, "Why should that be a problem?"
15 But for people who have to take time off of work and for
16 whom that's an unaffordable idea, it can be a very, very
17 real problem.

18 The other issue, in trying to receive a
19 state ID in the State of Texas is, it's almost a
20 circular process. In order to get the state ID, you
21 have to have underlying ID that provide you with the
22 opportunity to get that ID. And I know we're talking
23 right now in the State of Texas about giving free ID to
24 people who come in to the Department of Motor Vehicles
25 and ask for that ID, based on the fact that they want to

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1 vote.

2 But if I can't provide underlying
3 documentation, I'm going to have to go get that
4 underlying documentation, and it's going to cost me
5 money, and I'm concerned about that person. I'm
6 concerned that if I need a birth certificate in the
7 State of Texas, it's going to cost me \$23. I'm also
8 concerned that I might have a really hard time getting
9 that birth certificate. And if you look to see what you
10 can show in order to get it, you see the circularity of
11 the problem. You can show a driver's license or you can
12 show a state ID. Well, the reason I need the birth
13 certificate is so I can get my driver's license or my
14 state ID.

15 In order for me to get a birth
16 certificate, I can show a social security card as one of
17 my underlying two documents that are required. But in
18 order to have a social security card, I've got to have a
19 driver's license or a state ID, so it puts me right back
20 at my original problem. To get my driver's license or
21 my state ID, I might be able to use a passport. But in
22 order to use my passport, I'm going to have to have a
23 birth certificate, but I couldn't get my birth
24 certificate because I didn't have a driver's license or
25 a state ID to get my birth certificate.

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1 You see the problem? It's not just the
2 problem of the time one has to take off of work in order
3 to comply with this requirement, it's not just a problem
4 of how much money it costs. Sometimes it can be a
5 problem of almost a near impossibility for a person to
6 be able to provide the underlying documentation in order
7 for them to go and vote.

8 And my concern about that is, we will
9 disparately impact persons who find greater challenges
10 in fulfilling the underlying documentation requirements;
11 and, yet, we haven't provided anywhere in the bill, as
12 was done in Indiana, a provisional opportunity for
13 someone to come and cast a ballot and say that they were
14 unable to comply with the requirements for a photo ID.
15 Why is that?

16 SEN. FRASER: Senator, I appreciate the
17 story you just gave. And I would advise you of the
18 other 31 members here. There's a lot of people that can
19 tell like stories. When I was 16 and working on a
20 potato picker in California or when I was 17 working
21 picking cucumbers in Rising Star or when I was 18,
22 picking cotton in West Texas, I figured out a way to
23 have time after work to go get a driver's license,
24 because I really wanted one. I worked that into the
25 schedule, as I think a lot of people do.

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1 I think what I would ask you is to give
2 evidence, either in Indiana or Georgia, of a single
3 person that has come forward and said that they were
4 denied their ability to vote because of these
5 provisions, because in my knowledge, there has not been
6 a single person that came forward.

7 SEN. DAVIS: And again, you know, when you
8 turn to those two laws, they actually provide some
9 exceptions that are not provided in your bill, and so
10 the instances in which people were excluded or
11 prohibited from exercising their constitutional right to
12 vote won't have been challenged in the same was as being
13 proposed for the State of Texas under this particular
14 bill.

15 I want to ask you a question about what
16 happens, as a woman, if I come in to vote and I have my
17 state ID, and the name on my state ID is different than
18 my name on the registrar's certificate, because I've
19 either married or divorced. What will happen in that
20 situation?

21 SEN. FRASER: The question has already
22 been asked twice. We will have someone here from the
23 Secretary of State and the DPS that can answer that
24 question for you.

25 SEN. DAVIS: Okay. Back to the fiscal

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1 note, Senator Fraser. The fiscal note --

2 SEN. FRASER: We've also talked about that
3 a couple of times.

4 SEN. DAVIS: Yes, we did, but I want to
5 ask this question. The fiscal note, of course,
6 described the methodology under which the \$2 million
7 figure was compiled, and it specifically states that it
8 left out the cost for training poll workers and election
9 officers. It specifically states that it left out any
10 cost for coordinating voter registration drives. It
11 specifically states that it left out the costs of
12 providing the ID cards, all of that because it is an
13 unknown number.

14 SEN. FRASER: Well, you're making an
15 assumption, and this amount was brought forward by LBB
16 after they talked to the secretary of the State. The
17 Secretary of State, I think, they can answer that
18 question. But I disagree that it's unknown. I believe
19 the Secretary of State and LBB knew exactly what they
20 were doing when they brought it forward, because that's
21 their job.

22 SEN. DAVIS: Well, it literally says that.
23 It says, "The fiscal impact of the revenue loss from the
24 prohibition of DPS to collect a fee is unknown because
25 it is not known how many people would make such a

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1 request."

2 SEN. FRASER: And that is a correct
3 statement.

4 SEN. DAVIS: And it also says that the
5 cost of coordinating voter registration drives or other
6 activities designed to expand registration is also
7 unknown, and it also says that the cost for
8 responsibilities, the training for people who would be
9 responsible for implementing this is unknown.

10 Now, if I file a bill this session and I'm
11 challenged, based on the fiscal impact of the bill,
12 clearly this session more than any other will be very,
13 very concerned about that. And the LBB has put a
14 statement on it that they really don't know what the
15 cost is, but intuitively we understand there's going to
16 be a cost. We'll probably have a conversation about
17 that. Right?

18 SEN. FRASER: And I think the conversation
19 you should have should be the Secretary of State in
20 discussing the HAVA funds that the federal government
21 has provided to both Indiana and Georgia for the
22 implementation of their law that we believe will be
23 approved for that, but it has not been approved, because
24 HAVA has clearly said the bill has to be passed before
25 they could pass judgment on whether those funds could be

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1 used. That amount of money is setting in the Secretary
2 of State's office now, and I think that would be a good
3 question to ask them.

4 SEN. DAVIS: Let me ask a question about
5 the bill itself. I'm a little confused about a section.
6 This is on Page 5. I'm reading from Section 8,
7 Subsection (a). "If the voter's address is omitted from
8 the precinct list under Section 18.005(c), the officer
9 shall ask the voter if the voter's residence, if listed,
10 on ID presented by the voter under Section 63.001(b) is
11 current and whether the voter has changed residence
12 within the county." What if the answer is "No," what is
13 the election worker to do at that point?

14 SEN. FRASER: That's a perfect question to
15 ask the Secretary of State.

16 SEN. DAVIS: It's your bill, though,
17 Senator Fraser, and the language is here. And there is
18 no guidance for someone -- if we were to vote on a bill
19 like this, how are we to know how a situation like that
20 would be handled if it's not addressed in the bill?

21 SEN. FRASER: Senator, I'm sure you're
22 aware through -- the past session, you were here.
23 You're reading current law. There is one change there
24 where we insert "presented by the voter under Section
25 63.001," which is the description I think of the photo

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1 ID. But basically that is current law, and I think it
2 would be a good thing to ask the Secretary of State.
3 Everything you've read is current law.

4 SEN. DAVIS: Well, it's not current law,
5 because it changes it from the difference being on the
6 voter registration certificate versus being on the
7 person's ID. What I'm concerned about is that if I come
8 in with an ID and my address has changed and I have the
9 correct address on the precinct list that's different
10 than what's on my ID, that a poll worker might actually
11 reject my opportunity to vote, because the address on my
12 ID is showing differently than is showing on the
13 precinct list.

14 SEN. FRASER: And the good thing about
15 that is, these HAVA funds that we're going to request
16 will also train poll workers to make sure they
17 understand it. The ruling would be made by the
18 Secretary of State, and they will train them how to do
19 that, and I feel very comfortable that you would get to
20 vote.

21 SEN. DAVIS: Well, I'm glad you feel very
22 comfortable, Senator Fraser. I remain very, very
23 concerned about the number of people under the very
24 severe restrictions that are imposed by the bill you
25 have proposed. I'm very concerned about the number of

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1 people who may be impacted by it. And I understand and
2 agree with you, that assuring that voter fraud is not
3 occurring is very, very important, and it's a
4 conversation we should be having and a cure we should
5 all attempt to find.

6 But in the process, I'm very afraid that
7 we're going to wind up disenfranchising people who
8 currently are legal citizens in the State of Texas who
9 have the legal opportunity to vote and are going to be
10 denied the right for that right under your bill as it's
11 proposed today.

12 SEN. FRASER: And I believe our bill will
13 be approved by the U.S. Supreme Court and approved in
14 Section 5 by the Department of Justice.

15 Thank you.

16 SEN. DAVIS: Thank you.

17 CHAIRMAN DUNCAN: Senator West.

18 SEN. WEST: Thank you very much,
19 Mr. Chairman. I would like to ask the author a couple
20 of questions.

21 Senator Fraser, good morning, sir.

22 SEN. FRASER: I think we commented about
23 the Barry White voice last year. I was reading the
24 deposition.

25 SEN. WEST: That was actually Billy Ocean,

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1 which both of us like.

2 SEN. FRASER: Both of us do like. I
3 agree.

4 SEN. WEST: Now, we're not going to have
5 any unfunded mandates on counties, are we? This bill
6 would not occasion any unfunded mandates on counties.

7 SEN. FRASER: This bill?

8 SEN. WEST: Yes, this bill that you're
9 proposing. The counties will not have to pick up any of
10 this cost -- is that correct -- because that would be an
11 unfunded mandate? And I know you are not for unfunded
12 mandates. Right?

13 SEN. FRASER: I am not for -- I'm opposed
14 to unfunded mandate, but I'm not advised of whether it
15 would be --

16 SEN. WEST: So you can tell counties, you
17 can tell all county officials in the sound of my voice
18 and your voice that there will be no unfunded mandates
19 in this bill and counties will not have to spend any
20 money that they don't have right now to implement this
21 particular bill. Correct?

22 SEN. FRASER: I had my largest county,
23 Bell County, in my office last week, and I told Judge
24 Burrows at that time that I'm opposed to unfunded
25 mandate and, you know, we'll do everything we can to

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1 keep them off the counties.

2 SEN. WEST: So you're telling county
3 officials there are no unfunded mandates coming from
4 this bill?

5 SEN. FRASER: I didn't say that.

6 SEN. WEST: So there may be unfunded
7 mandates coming from this bill?

8 SEN. FRASER: Not advised.

9 SEN. WEST: So let me back up. And I want
10 to pursue this just a minute now. You philosophically
11 are not for unfunded mandates. Right?

12 SEN. FRASER: That's a correct statement.

13 SEN. WEST: That is a correct statement.
14 And you, by your action in previous legislatures, have
15 made certain that you have not passed any bills that
16 would provide for unfunded mandates on the counties.
17 Right?

18 SEN. FRASER: I have made an effort not to
19 vote, if possible.

20 SEN. WEST: Okay. Now, in this particular
21 bill, it is your objective to make certain that there
22 are no unfunded mandates on any county in this entire
23 state. Is that correct?

24 SEN. FRASER: I'm not advised.

25 SEN. WEST: You're not advised as to what

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1 your objective is?

2 SEN. FRASER: No. My philosophy is that I
3 do everything I can trying to keep any unfunded
4 mandates. I'm not advised of how they would be
5 impacted.

6 SEN. WEST: All right. So you can't tell
7 county officials that there are not unfunded mandates in
8 this bill?

9 SEN. FRASER: Well, as you know, a lot of
10 times there's unintended consequences, and we don't know
11 until it's passed, the impact.

12 SEN. WEST: It was your bill, though.
13 This is your bill. You don't know --

14 SEN. FRASER: My bill says that --

15 SEN. WEST: I'm just --

16 SEN. FRASER: -- when you walk into the --

17 SEN. WEST: I'm just trying to find out
18 whether or not county officials are going to have to
19 pick up any of the cost in terms of putting this bill
20 into effect. You tell me. Tell the county officials
21 that there are no unfunded mandates in this bill. Tell
22 them.

23 SEN. FRASER: I'm not advised.

24 SEN. WEST: So what you're telling county
25 officials, that you're not advised as to whether or not

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1 there is any unfunded mandates in this bill. Correct?

2 SEN. FRASER: I'm sure that there's
3 probably an expert witness coming. You probably can ask
4 a question. Someone, or someone may be coming to
5 testify about that, but --

6 SEN. WEST: All right. Let's talk about
7 expert witnesses. Did you ask for the fiscal note in
8 this bill?

9 SEN. FRASER: I'm sorry?

10 SEN. WEST: Did you ask for the fiscal
11 analysis in this bill -- the fiscal note?

12 SEN. FRASER: No. I think the committee
13 chairman did. I believe the -- there is a fiscal note
14 requested. I did not request it.

15 SEN. WEST: Did you review the fiscal
16 note?

17 SEN. FRASER: The fiscal note was handed
18 to me. I read the fiscal note. I guess reviewing it,
19 yes, I read it.

20 SEN. WEST: Okay. Go to the local
21 government impact section of it, Page 2 of 3, down at
22 the bottom.

23 SEN. FRASER: Yes.

24 SEN. WEST: Okay. Second paragraph,
25 "According to Texas Association of Counties, Tarrant

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1 County anticipated a one-time cost to reprint
2 provisional balloting materials and provides new
3 notices, of \$8,000. Bexar County stated that due to
4 limited space on current registration certificate, large
5 cards would be necessary, resulting in additional costs
6 for cards, printing and postage of \$381,000," et cetera.

7 Is that a cost that is going to be picked
8 up by the state or is that going to be a cost that's
9 going to be occasioned by the counties?

10 SEN. FRASER: Senator, you're on the
11 Finance Committee. You helped with proposing the draft
12 bill, and then you will be voting on the bill coming out
13 of the committee that you send to us, so I think you
14 would be better to answer that. My job is to pass the
15 bill. The implementation of the bill, then, and the
16 cost will have to be considered by the Finance
17 Committee.

18 SEN. WEST: So let me make sure that I
19 understand this, then. The answer to that question is,
20 you don't know. So if we don't appropriate that
21 money -- that being the Legislature doesn't appropriate
22 that money -- then that's an unfunded mandate. Correct?

23 SEN. FRASER: My job is to bring the bill
24 forward, put it before the membership, advise what the
25 bill will do. And then if there's a fiscal impact --

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1 SEN. WEST: Advise what the bill will do?

2 SEN. FRASER: The bill is going --

3 SEN. WEST: Is that your job? Didn't you
4 just say part of your job is to advise what it will do?

5 SEN. FRASER: Yes. What it's going to do
6 is that when you walk into --

7 (Simultaneous discussion)

8 SEN. WEST: So I'm asking you --

9 SEN. FRASER: -- in Oak Cliff and want to
10 vote, you're going to have to show your smiling face --

11 SEN. WEST: And I'm asking what it will
12 do. I'm asking what it will do in terms of unfunded
13 mandates right now.

14 SEN. FRASER: Not advised about unfunded
15 mandates.

16 SEN. WEST: Not advised. So where will
17 the counties get this money under the local impact --

18 (Simultaneous discussion)

19 SEN. FRASER: And I think that's going to
20 be your responsibility as a member of Finance.

21 SEN. WEST: Do you know -- then let me ask
22 this question. Do you know where the county will get
23 the money from, counties will get that money from?
24 Under the local government impact, do you know where the
25 counties will get that money from?

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1 SEN. FRASER: You're asking me a question.
2 No, I do not know --

3 SEN. WEST: Okay. Thank you. Now, as it
4 relates to -- this bill, plus the costs that we don't
5 know, you've said repeatedly that it's going to cost at
6 least \$2 million. And we know, based on the fiscal
7 note, that there's still some undetermined cost.

8 SEN. FRASER: I have not said one time
9 that it's going to cost \$2 million. I've said there is
10 a fiscal note that has been projected, but there are
11 dollars in the HAVA fund, federal funds, that are
12 setting in the Secretary of State's office that far
13 exceed that number. And I think the Secretary of State
14 probably will let us know what that is. So there is a
15 pot of money there that we believe will help offset some
16 of the associated expenses. I do not believe the cost
17 will be \$2 million.

18 SEN. WEST: Now, the HAVA funds, is that
19 general revenue or is that federal funds?

20 SEN. FRASER: Federal funds.

21 SEN. WEST: Okay.

22 SEN. FRASER: And I believe I'm right, but
23 again, I would ask that question of the Secretary of
24 State if I were you.

25 SEN. WEST: Okay. Well, as it relates to

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1 general revenue, now, as I understand and as I've used
2 the term "general revenue" over the last 17 years I've
3 been here -- and maybe Senator Ogden or someone else on
4 the Finance Committee can correct me if I'm wrong --
5 general revenue basically means state funds -- right --
6 monies that we get from state --

7 SEN. FRASER: You are the member of
8 Finance.

9 SEN. WEST: Well, let me -- general
10 revenue -- okay. Well, then, take my word for it;
11 that's what it means. It means monies that we receive
12 from tax revenues in the State of Texas, not HAVA funds
13 but revenues from taxes and revenues that are -- and
14 sources of revenues that we get from citizens in the
15 State of Texas. And that's what this deals with, it is
16 specifically general revenue-related funds, not HAVA
17 funds. HAVA funds are federal funds. So let's make
18 sure -- in terms of my questions, that's the distinction
19 that I'm making.

20 SEN. FRASER: Well, the distinction you're
21 not making is that if the HAVA funds are not available,
22 yes, there would be a cost to the state. But if HAVA
23 funds are available, it would offset that cost to the
24 state.

25 SEN. WEST: Where do you see that in this

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1 fiscal note?

2 SEN. FRASER: It's not in that. That's
3 conversation --

4 SEN. WEST: Then how are you making that
5 statement, if it's not in this fiscal note? There's
6 nothing in the fiscal note that says that.

7 SEN. FRASER: Mr. Chairman?

8 CHAIRMAN DUNCAN: Senator Fraser.

9 SEN. FRASER: Could I please enter into
10 the record -- this is information coming that is
11 addressing the questions he's talked about addressing
12 HAVA. I would like to have this added as an exhibit,
13 please.

14 CHAIRMAN DUNCAN: Bring it forward to the
15 Secretary, if you would, and we'll need to --

16 SEN. WEST: May we approach on it, Your
17 Honor -- Your Honor -- may we approach on it,
18 Mr. Chairman?

19 CHAIRMAN DUNCAN: You may.

20 (Brief pause)

21 SEN. FRASER: Mr. President?

22 CHAIRMAN DUNCAN: Senator Fraser, if
23 you'll hold on just a minute. I'm going to allow --
24 we're already premarked a couple of exhibits. And so
25 just in order to keep the record flowing correctly, I'm

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1 going to recognize Sen. Van de Putte at this point to
2 introduce a motion in writing.

3 Senator Van de Putte.

4 SEN. VAN de PUTTE: Thank you,
5 Mr. Chairman. And thank you, Chairman, and the bill
6 author, to yield so that I can move that all actions
7 taken by the Senate on the 81st Legislature on Senate
8 Bill 362, as contained in the official Senate Journal,
9 be included in the record as Exhibit 2. The Senate
10 Journal excerpts shall include motions, remarks, written
11 responses, exhibits and any other material directly
12 related to Senate Bill 362.

13 Mr. Chairman, I move this motion in
14 writing.

15 CHAIRMAN DUNCAN: Members, you've heard
16 the motion. Is there any objection?

17 The Chair hears none. Exhibit 2 will be
18 received into the record.

19 (Exhibit No. 2 marked and admitted)

20 CHAIRMAN DUNCAN: Now, Senator Fraser,
21 you're recognized on Exhibit 3, I believe.

22 SEN. FRASER: And, members, just to
23 clarify, what we're entering here is the answer to the
24 question that we've been discussing. It is a letter
25 from the Secretary of State, Hope Andrade, saying that

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1 the \$2 million we're discussing, there is sufficient
2 HAVA funds allocated to voter education and poll worker
3 training that would cover this expense that is
4 available.

5 Also, in addition to your question, we
6 have been advised by other counties saying they do not
7 expect more than a nominal cost for counties, existing
8 staff and resources should be sufficient to implement
9 the new law.

10 And I would request this be entered into
11 the record.

12 CHAIRMAN DUNCAN: Members, Senator Fraser
13 sends up Exhibit No. 3. It will be received into the
14 record.

15 (Exhibit No. 3 marked and admitted)

16 CHAIRMAN DUNCAN: Senator Fraser, you
17 still have the floor. Senator West, Senator has yielded
18 to you for questions.

19 And before we do that, before we do that,
20 let me make an announcement. We typically adjourn 30
21 minutes ahead of session in order to allow the sergeants
22 and secretary to prepare for the Senate session. So at
23 10:30, I'll recognize a member on a motion to rise and
24 report progress. So if you can watch the clock. It
25 doesn't mean we're going to cut you off, it just means

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1 at that point in time, we'll have to cease until we
2 finish the Senate session.

3 SEN. WEST: Thank you, Mr. Chairman.
4 Senator Fraser?

5 SEN. FRASER: Yes.

6 SEN. WEST: Okay. So you've admitted this
7 as part of the record. So these are federal funds and
8 not general revenue. Is that correct?

9 SEN. FRASER: No. Those are federal
10 funds, as I understand it, yes.

11 SEN. WEST: It's not general revenue?

12 SEN. FRASER: Yes.

13 SEN. WEST: Okay. And the certainty of it
14 is still up in the air. Based on this document from the
15 Secretary of State, they still have to confirm that the
16 funds can, in fact, be used for this particular purpose?

17 SEN. FRASER: That is correct, and that's
18 what I advised earlier, is that HAVA has said until the
19 passage of the bill, they would not rule, but the funds
20 have been used before in Indiana and Georgia, and it is
21 expected that we will be able to use them here.

22 SEN. WEST: Okay. Now, you had made
23 mention also that you've talked to some other counties
24 and that there won't be any unfunded mandates on those
25 counties?

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1 SEN. FRASER: You didn't read the rest of
2 the fiscal note, is that Comal County reported the costs
3 associated with the provision would be absorbed within
4 existing revenues. You gave one example, but I think
5 most of the counties expect this to be a nominal cost
6 and that they have existing staff and resources --

7 SEN. WEST: And then --

8 SEN. FRASER: To handle this.

9 SEN. WEST: I'm sorry. You said most of
10 the counties. You've given examples of three. You said
11 most of the counties. Is --

12 SEN. FRASER: Do you have evidence from
13 others? I --

14 SEN. WEST: There's 254 counties, and
15 you've just made a statement that most of the counties
16 have said they can absorb it within their normal --

17 SEN. FRASER: I said I do not expect it to
18 be more than a nominal cost.

19 SEN. WEST: But otherwise -- now Bexar
20 County is saying it's going to be over \$380,000. That's
21 not a nominal cost, is it?

22 SEN. FRASER: Well, I guess that's
23 something you should consider in the Finance Committee.
24 They have a huge budget, and in --

25 SEN. WEST: Who has a huge budget?

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1 SEN. FRASER: The large counties.

2 SEN. WEST: I'm sorry?

3 SEN. FRASER: The large counties.

4 SEN. WEST: They have huge budgets?

5 SEN. FRASER: Yes. And you will have to
6 make that decision.

7 SEN. WEST: They don't have budget
8 shortfalls in large counties?

9 SEN. FRASER: If I were you, then I would
10 discuss that with the chairman --

11 SEN. WEST: But the reality is, the
12 reality is, is that if -- and I won't belabor the
13 point -- the reality is, if those counties will have to
14 fund this out of existing revenue from their budgets,
15 it's going to be an unfunded mandate on them if the
16 state does not appropriate the money. Is that correct?

17 SEN. FRASER: Yes. It is expected that it
18 will be a nominal cost for counties. Existing staff and
19 resources should be sufficient to implement the new law.

20 SEN. WEST: And where are you getting that
21 from?

22 SEN. FRASER: From the sheet here. If
23 you'll follow, Comal County reported the cost associated
24 with the provision of the bill should be absorbed within
25 existing revenues.

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1 SEN. WEST: But that's Comal County.
2 That's not Travis County, that's not Harris County,
3 that's not Bell County or any of the other counties.
4 That's Comal County. Comal County is not indicative of
5 all of the counties in the State of Texas, is it?

6 SEN. FRASER: I think what you should do,
7 then, is get 254 counties, if you'll call them all and
8 get that number and --

9 SEN. WEST: Okay. Well, I mean, it's your
10 bill.

11 (Simultaneous discussion)

12 SEN. FRASER: -- Finance.

13 SEN. WEST: And the reality is, if it's an
14 unfunded mandate, you're responsible for it if this bill
15 passes. Now, let me ask you this: The \$2 million, the
16 \$2 million that you're talking about, if it does not
17 come from HAVA funds, then it's going to have to come
18 from general revenue. Is that correct?

19 SEN. FRASER: I'm not advised. I'm not a
20 member of Finance; you are. And I think that would be a
21 decision of Finance.

22 SEN. WEST: Let's talk about just sections
23 of the bill. Specifically, the issue concerning -- and
24 I think you and Senator Davis have gone over this. And
25 I'm on page, in Section 7 of the bill, specifically (c)

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1 and (d). Let me know when you're with me on it.

2 SEN. FRASER: What page are you on?

3 SEN. WEST: I'm in Section 7 of the bill.

4 SEN. FRASER: That's Section 11.

5 Six, 7. Okay. Got it. Okay.

6 SEN. WEST: Okay. As relates to -- let's
7 talk about the election officer. Now, what's the
8 definition of the election officer?

9 SEN. FRASER: That would be a good
10 question to the Secretary of State.

11 SEN. WEST: So you don't know what an
12 election officer is?

13 SEN. FRASER: I've got a witness, you
14 know, an expert witness coming in that -- you know, I
15 think I do, but it would be improper for me to answer.
16 I've got an expert person you can ask.

17 SEN. WEST: Let me ask this: Did you rely
18 on the Secretary of State's office in helping to draft
19 this bill?

20 SEN. FRASER: We have had a lot of
21 discussion with the Secretary of State's office over the
22 last three years in the process of drafting bills.

23 SEN. WEST: So you don't know what an
24 election officer is?

25 SEN. FRASER: I didn't say I don't know

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1 what the election officer is. But the Secretary of
2 State is coming, and it would be improper for me to
3 answer that if we have an expert witness that can answer
4 it, you know, for sure.

5 SEN. WEST: So it would be improper for
6 you to answer what an election officer is?

7 SEN. FRASER: No. We've got an expert
8 witness that would be the better person to ask.

9 SEN. WEST: Okay. In terms of what an
10 election officer is in your bill. Okay.

11 As it relates to Section (d), you say
12 that, "If the voter's name is on the precinct list of
13 registered voters and the voter's identity can be
14 verified from the documentation presented under
15 Subsection (b), the voter shall be accepted for voting."
16 But if, indeed -- and the election officer is to make
17 that determination. Is that correct?

18 SEN. FRASER: Again, that's a great
19 question to ask the Secretary of State's office.

20 SEN. WEST: How does your bill work? Tell
21 us how your bill works.

22 SEN. FRASER: You know, it's a --
23 (Simultaneous discussion)

24 SEN. WEST: I mean, would that be a great
25 question to ask the Secretary of State?

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1 SEN. FRASER: It's a great concept. You
2 walk in in Oak Cliff to vote. And if you're in the
3 right precinct and your name is on the list and you pull
4 out your driver's license and you show it to them and
5 your smiling face on your driver's license matches
6 you --

7 SEN. WEST: Well, let me --

8 SEN. FRASER: -- I think they're going to
9 hand you a ballot and allow you to vote.

10 SEN. WEST: Then let me ask you this: My
11 last name is spelled W-e-s-t. Suppose there's some
12 typographical error where they spelled it W-e-s, but
13 it's me. I have an ID, but my name is misspelled. What
14 happens then? I have to vote a provisional ballot?

15 SEN. FRASER: I think that would be a good
16 question for the Secretary of State, because I think
17 they will cover that in the training with the election
18 officials you're discussing.

19 SEN. WEST: What is your, intent, Senator?

20 SEN. FRASER: My intent is that the
21 Secretary of State would make a ruling on that.

22 SEN. WEST: Under those circumstances,
23 what would be your intent, as the author of this bill?
24 If my name is W-e-s-t but there is a typographical error
25 someplace and it's W-e-s, what is the intent. Give the

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1 record your intent as the author of this bill.

2 SEN. FRASER: My intent, as the author of
3 the bill, is that I'm going to give the authorization to
4 the Secretary Of State to make a ruling and train the
5 poll workers so that it would be clear that they're
6 allowing the proper person to vote.

7 SEN. WEST: They're allowing the proper
8 person to vote. So in that circumstance, would it be up
9 to the election officer there to determine whether I'm
10 the same person --

11 SEN. FRASER: I think it would be up to
12 the Secretary of State --

13 SEN. WEST: Let me finish; let me finish.

14 -- whose last name is W-e-s, but my
15 identification says W-e-s-t, and I'm presenting that, it
16 would be up to that election worker. Right?

17 SEN. FRASER: I think that would be a
18 great question to ask the Secretary of State.

19 SEN. WEST: But what's your intent,
20 though? I'm just asking your intent. I can't ask the
21 Secretary of the Senate what's your -- I mean, Secretary
22 of State what your intent is.

23 SEN. FRASER: I intend to --

24 (Simultaneous discussion)

25 SEN. WEST: You've got to manifest your

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1 intent so the Secretary of State will know, have some
2 guidance in terms of how this bill should be
3 implemented. Don't you agree, as the author of the
4 bill?

5 SEN. FRASER: My intent is to give the
6 Secretary of State the authorization to determine the
7 rules, train the poll workers. They would make a
8 determination on that.

9 SEN. WEST: So the poll worker in this
10 instance would be the election officer? I have to ask
11 the Secretary of State?

12 SEN. FRASER: You need to ask the
13 secretary of State.

14 SEN. WEST: Okay. Poll workers, let's
15 talk about poll workers. How much do we pay poll
16 workers?

17 SEN. FRASER: That would be a good
18 question to ask the Secretary of State.

19 SEN. WEST: Okay. What's the minimum
20 wage? I would ask the Secretary of State?

21 SEN. FRASER: What does that have to do
22 with this bill?

23 SEN. WEST: I mean, I'm just trying to
24 understand exactly how much we pay our poll workers.

25 SEN. FRASER: Again, Senator, you're

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1 asking the question. I would suspect probably poll
2 workers may be paid different from one county to
3 another. And it's an area -- I think that that's a good
4 question of the Secretary of State.

5 SEN. WEST: Okay. Now, you keep referring
6 to the Secretary of State. But in the bill analysis,
7 doesn't it also say that this bill does not expressly
8 grant any additional rulemaking authority to the state
9 office -- to a state officer, institution or agency?
10 Does it say that? Do I have to ask the Secretary of
11 State about that also?

12 SEN. FRASER: Senator, I'm sorry. I'm not
13 advised. I do not have a bill analysis. Do you have
14 one in front of you you would like show me?

15 SEN. WEST: I do. Look under "Rulemaking
16 Authority."

17 SEN. FRASER: We don't have it.

18 SEN. WEST: You don't have a -- okay. In
19 the bill analysis, what it says is that this bill does
20 not expressly grant any additional rulemaking authority
21 to a state officer, institution or agency?

22 SEN. FRASER: Isn't that standard language
23 that's put on every bill?

24 SEN. WEST: I don't know. But what I'm
25 asking you is --

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1 SEN. FRASER: You don't know?

2 SEN. WEST: -- given the fact that you are
3 deferring everything to the Secretary of State, are you
4 going to put some additional language in the bill that
5 provides the Secretary of State some additional
6 rulemaking?

7 SEN. FRASER: I think the key word there,
8 this does not provide any additional. I think it's
9 assumed that the Secretary of State has that ability
10 under current ability we've given the Secretary of
11 State.

12 SEN. WEST: Let me ask this, Senator
13 Fraser. Okay. All right. You can't give me what your
14 intent is in that situation. I'll just take that for
15 granted.

16 You have made reference to the Carter-
17 Baker Commission and recommendations. Is that correct?

18 SEN. FRASER: I want to make an
19 observation here for Senator Whitmire. If you'll look
20 up, it is filling up, so there must be someone concerned
21 about the legislation we're talking about.

22 What was the question?

23 SEN. WHITMIRE: Lubbock.

24 SEN. FRASER: While Senator West gathers
25 himself, I'll tell you that those are the great people

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1 from West Texas, the City of Lubbock. And they are
2 great voters and very concerned. And I've seen the
3 polling data that shows that West Texas was the highest
4 percentage of people that believe that they should show
5 their ID whenever they show up to vote. I'm really glad
6 to have them at my back.

7 Go ahead.

8 SEN. WEST: Do I need to ask the Secretary
9 of State about that, too, or what?

10 SEN. FRASER: You could. These people
11 respect the opinion of the Secretary of State, and they
12 probably have already asked.

13 SEN. WEST: Okay. Senator Fraser, a
14 couple of things. As it relates to the Carter-Baker
15 Commission, you've talked about the recommendations, and
16 you are following the recommendations that came out of
17 that commission. Is that correct?

18 SEN. FRASER: No. I filed a piece of
19 legislation that I believe will be approved by the U.S.
20 Supreme Court and will be cleared by the Department of
21 Justice.

22 SEN. WEST: Okay. Let me ask you this:
23 Have you made mention of the Carter-Baker Commission?

24 SEN. FRASER: I have made references a
25 couple of times of things that they mentioned in their

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1 report.

2 SEN. WEST: Of the recommendations that
3 they mentioned, did you incorporate any of those in your
4 bill?

5 SEN. FRASER: My bill is a bill I believe
6 that will be approved by the U.S. Supreme Court and be
7 approved by the Department of Justice and will --

8 SEN. WEST: So the answer to the question
9 is what? Did you incorporate any of the recommendations
10 from the Carter-Baker Commission in your bill?

11 SEN. FRASER: The bill that we're filing
12 is a bill that I believe will be approved by the U.S.
13 Supreme Court and be approved by the Department of
14 Justice.

15 SEN. WEST: So the answer to the question
16 is?

17 SEN. FRASER: That we're filing a bill
18 that's going to be approved by the U.S. Supreme Court.

19 SEN. WEST: Well, that wasn't the question
20 asked. The question asked, did you incorporate any of
21 the recommendations in the Carter-Baker Commission in
22 your bill? That was the question I asked.

23 SEN. FRASER: I read the Carter-Baker
24 report. And you know, obviously, I'm aware of the
25 things they're recommending. But the bill that I've

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1 drafted is based on the fact that whenever you walk in
2 to vote, I want you to show an ID proving you are who
3 you say you are, and I believe that bill will be
4 approved by the U.S. Supreme Court.

5 SEN. WEST: So you don't know whether you
6 did or not. Is that the answer to my question?

7 SEN. FRASER: My answer is, the bill that
8 we filed, that we brought forward, is a bill that
9 clearly says that whenever you vote, you need to show
10 your ID, and I believe that bill will be approved by the
11 U.S. Supreme Court.

12 SEN. WEST: Was that one of the
13 recommendations of the commission?

14 SEN. FRASER: I'm not advised.

15 SEN. WEST: But you made reference to it
16 as a predicate for why this particular bill --

17 SEN. FRASER: No. I made a reference to
18 comments that were made by the Carter-Baker Commission.

19 SEN. WEST: What were those comments that
20 you made?

21 SEN. FRASER: If you want to go over it
22 again, I can do my opening statement again if you would
23 like.

24 SEN. WEST: No, just the comments from the
25 Carter-Baker Commission.

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1 SEN. FRASER: Carter-Baker Commission,
2 bipartisan -- Carter-Baker Commission affirms the
3 danger. Elections are at the heart of the democracy.
4 "Americans are losing confidence in the fairness of
5 elections, and while we do not face a crisis today, we
6 need to address the problems of our electoral system."

7 The Carter-Baker Commission concluded at
8 the end of the day, there's considerable national
9 evidence of in-person voter fraud. And regardless of
10 whether one believes that voter impersonation is
11 widespread or relatively rare, there can be no serious
12 dispute that it is a real effect, can be substantial
13 because, in a close election, even a small amount of
14 fraud could make a margin of difference.

15 SEN. WEST: Okay.

16 SEN. FRASER: That was my reference to the
17 commission.

18 SEN. WEST: Okay. Did they also
19 recommend, though, that we should use some sort of
20 mobile strategy, mobile strategy in order to get
21 vehicles out to different locations to --

22 SEN. FRASER: I didn't reference that.

23 SEN. WEST: No. I said did they also
24 recommend that, though?

25 SEN. FRASER: I'm sorry. I'm not advised.

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1 I didn't reference that.

2 SEN. WEST: Okay. But if they did make a
3 recommendation that we should do everything we can to
4 make certain people are registered to vote, you would
5 support that, wouldn't you?

6 SEN. FRASER: The bill I'm filing, that
7 I'm filing today --

8 SEN. WEST: No. That's not --

9 SEN. FRASER: -- very clearly says that I
10 think it will be approved by the U.S. Supreme Court and
11 approved by the Department of Justice.

12 SEN. WEST: And we need to ask the
13 Secretary of State. Okay. I understand that. But what
14 I'm asking is, you would agree that if we are trying to,
15 quote unquote, purify our election process, that we
16 should do everything we can in order to make certain
17 people are registered to vote. Wouldn't you agree with
18 that?

19 SEN. FRASER: I think probably when the --

20 SEN. WEST: Well, you would not agree with
21 that?

22 SEN. FRASER: If you'll allow me to make a
23 statement.

24 SEN. WEST: Sure.

25 SEN. FRASER: I think when DPS comes up, I

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1 think there's going to be a lot of discussion about what
2 can they do in the form of either making it easy for
3 people to sign up and/or even, maybe even a temporary
4 van for an area that Senator Uresti had talked about in
5 far West Texas. Those people that are, you know,
6 100 miles from the nearest location, maybe there's a way
7 to accommodate that. So I think the answer to your
8 question is, I'm anxious to hear the response of the
9 Department of Safety of what they're either able and/or
10 willing to do.

11 SEN. WEST: And let's assume that they are
12 able and willing to do more than your bill permits.
13 Would you support an amendment that would enable them to
14 do what they're able to do in order to --

15 SEN. FRASER: Have you prefiled that
16 amendment and have I had a chance to look at it?

17 SEN. WEST: No. I'm asking you a question
18 right now.

19 SEN. FRASER: And I'm asking you, have you
20 filed your amendment?

21 SEN. WEST: Well, you basically said, sir,
22 that you have to wait -- we have to wait until you hear
23 their testimony before we can make a determination as to
24 whether or not they're --

25 SEN. FRASER: No, I can't tell you --

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1 SEN. WEST: Well, let me finish; let me
2 finish, please. Let me finish.

3 What you just said a second ago is, is
4 that you want to defer to the Department of Public
5 Safety to make a determination as to whether or not
6 there are things that they can do in order to make
7 certain they're doing the outreach that's necessary to
8 accommodate just some of the concerns that senator
9 Uresti had.

10 SEN. FRASER: I didn't say that at all. I
11 said --

12 SEN. WEST: What did you say?

13 SEN. FRASER: -- I'm anxious to hear their
14 testimony when they're asked and their response of what
15 they are able, capable of doing for that. And then once
16 you do that, if you want to offer an amendment, I will
17 look at every amendment offered. If you'll got one, you
18 need to go ahead and file it.

19 SEN. WEST: Let me give you a
20 hypothetical, then. If the Department says that they
21 can do much more than your bill currently allows them to
22 do, would you support an amendment that would give them
23 the resources or give them the rulemaking authority to
24 be able to do the outreach?

25 SEN. FRASER: I'm probably not going to

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1 work in hypotheticals right now. Let's wait until we
2 hear from them. Then we'll determine that.

3 SEN. WEST: Okay. Well, I'm going to make
4 sure and I'll put that down.

5 I want to talk about seniors just for one
6 second. How did you come up with 70 years old? Well,
7 hold on. Let me ask you this: Is there a definition, a
8 federal definition under any of our laws, U.S. laws or
9 either state laws, that defines a senior citizen?

10 SEN. FRASER: It was really actually a
11 very complicated system that we came up with this. It
12 actually was recommended by a democratic member that
13 said, "If you'll put that in the bill, that would help
14 five or six of us vote for the bill." So that was
15 recommended originally to be put in the bill. But the
16 answer to your question is, I'm 61 years old, and I
17 think you're just about as old as I am.

18 SEN. WEST: No, I'm younger; I'm younger
19 than you are. I'm younger.

20 SEN. FRASER: Oh, you're 60 -- 59?

21 SEN. WEST: I'm younger than you are.

22 SEN. FRASER: How old are you, sir?

23 SEN. WEST: I'm 58 years old.

24 SEN. FRASER: Okay. Of the people

25 (laughter) --

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1 SEN. WEST: Ask the Secretary. We're not
2 going to --

3 SEN. FRASER: I want to see your photo ID.

4 SEN. WEST: Ask the Secretary.

5 SEN. FRASER: I need a photo ID.

6 SEN. WEST: Got to ask the Secretary.

7 SEN. FRASER: And here, this is a good
8 observation. I live in an area, a retirement community,
9 and I know a lot of the people in that area. And the
10 people that are my age, that are 61 up to 65 up to 70, I
11 think are still very, very capable. It is not an
12 inconvenience on them. There's a lot of people that are
13 70 --

14 SEN. WEST: And what community?

15 SEN. FRASER: You want me to answer the
16 question?

17 SEN. WEST: I just didn't hear. You said
18 you lived in a retirement --

19 SEN. FRASER: I live in an area where
20 there's a lot of retired people.

21 SEN. WEST: People. Okay.

22 SEN. FRASER: Yes, like myself.

23 SEN. WEST: Yes.

24 SEN. FRASER: Those people that I know,
25 people that are up to that age, it would not be an

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1 inconvenience for them, and they're still very, very
2 active. Actually, I've got numerous people that I play
3 golf with often that are above 70 and up to 80. So,
4 actually, the number probably could have been higher,
5 but that number we thought was a fair number and
6 represented a number that we could offer up as a very
7 fair number for an exception to this bill.

8 SEN. WEST: Let me make sure I understand
9 your answer to that question. You're saying that the
10 age 70 is predicated on people that you know that live
11 in your community?

12 SEN. FRASER: It is predicated by a
13 democrat member offering me that up as a number, that if
14 we would put that in the bill, there would be five or
15 six Democrats that would vote for the bill. That's the
16 answer to my question.

17 SEN. WEST: Okay. But you added a lot of
18 other stuff after that. What was all that other stuff?

19 SEN. FRASER: The other stuff was the
20 people that I know that are capable of that. Now, if
21 someone is not capable, we are not changing the mail-out
22 ballot procedures. And that anyone for some reason that
23 could not vote in person would be allowed to vote like
24 they do today.

25 SEN. WEST: Don't you think that a better

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1 definition would be 65? Why wouldn't you use 65? And
2 let me give an example.

3 In the Human Resource Code, elderly person
4 means a person 65 years of age or older. Why wouldn't
5 we use that as an age? Our Penal Code uses elderly
6 individual means a person 65 years of age or older. Our
7 Utility Code means an individual who is 60 years or
8 older. Our Human Resource Code means an elderly person,
9 means a person who 60 years or older. And now we're
10 going to have our election code basically saying a
11 person of 70 years or older. Don't you think -- I'm not
12 going to vote for your bill anyway, but just in case.

13 SEN. FRASER: You actually were one of the
14 ones that was asking if I would put it in the bill.

15 SEN. WEST: No, no, no, no, no, no, no,
16 no. Let's get it straight. I didn't ask you that --
17 okay? -- for the record. Okay? I didn't ask you that.

18 SEN. FRASER: Okay.

19 SEN. WEST: But if you're going to put it
20 in there, it seems as though you should have one of a
21 consistent definition with some of the other statutes.
22 You're making an elderly individual for voting purpose
23 more onerous than it is under these other statutes, like
24 in our Penal Code where it says an individual -- elderly
25 person is 65 years old.

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1 SEN. FRASER: I actually believe that the
2 number probably could easily be higher, because --

3 SEN. WEST: So you would make it 80 years
4 old?

5 SEN. FRASER: I'm sorry?

6 SEN. WEST: You would make it 80 years old
7 for election purposes?

8 SEN. FRASER: I'm saying when I'm 80, I
9 still believe I'll be able to get in the car, go down
10 and get my ID and be able to vote.

11 SEN. WEST: But, see, you're assuming that
12 all elderly people have cars.

13 SEN. FRASER: If they don't, they can vote
14 by mail.

15 SEN. WEST: But you're assuming that they
16 all have cars and that they'll be able to do everything
17 that you'll be able to do at the age of 80. And I'm
18 pretty certain you will be able to do it given, you
19 know, the things that you do to keep yourself in shape
20 and everything.

21 But I don't think we should be building
22 that definition based on how you perceive yourself and
23 people in your neighborhood. The fact of the matter is,
24 you're more affluent than most other people in the State
25 of Texas. And if you're going to build a definition, I

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1 think what you need to look at is what the average
2 elderly person in the State of Texas, you know, is and
3 the means that they have.

4 SEN. FRASER: And, Senator, I think, you
5 know, if you're going to consider that, you've got to
6 think about how things have changed. When my parents
7 were 65, they were old. Things have changed a lot with
8 diet and exercise, and people are changing what they can
9 do.

10 People that are 70 or 75 or 80 are still
11 very, very active today, and I think it's a very fair
12 number. Now, I feel very comfortable that you're
13 probably going to offer an amendment, raising -- or
14 changing that number. And I think probably, if the
15 members of the body, you know, could help us decide
16 that, I think -- myself, I believe that 70 is a very
17 fair number --

18 SEN. WEST: Let me --

19 SEN. FRASER: -- exception.

20 CHAIRMAN DUNCAN: Senator West --

21 SEN. WEST: Yes.

22 CHAIRMAN DUNCAN: -- if I might
23 interrupt -- and I don't want to -- we can continue with
24 your line of questions when we reconvene as a Committee
25 of the Whole. It's 20 till. We've gone 10 minutes over

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1 what we previously announced. Would you have any
2 objection if we could continue the dialogue after
3 session?

4 SEN. WEST: No objection.

5 CHAIRMAN DUNCAN: Okay. Very good. Why
6 don't we go ahead and do that. Before we do that, let
7 me ask the body if you would, please, if you have
8 amendments that you would wish to -- we're not putting a
9 deadline on amendments, but it will help us if you can
10 deliver your amendments as soon as possible to Jennifer
11 Fagan who is the State Affairs Committee Director, and
12 we will try to collate them and make sure that there are
13 not conflicting amendments. And if you'll do that as
14 soon as possible, that will be helpful.

15 There are a number of people that are on
16 queue to be recognized, and I will recognize them in
17 order that they're on queue. Now we'll record that and
18 then start. Senator Lucio will be first, Senator Van de
19 Putte, Senator Ellis, Senator Seliger, unless you're
20 just -- you're just on for the motion, so we'll take you
21 off center -- Wentworth. He's just for the motion, so
22 we'll take him off. And then, Senator Zaffirini, you
23 would be in queue at that point in time. And then we'll
24 just start the queue. Whenever we come back in, you can
25 go ahead and hit your button and we'll have the queue.

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1 Exhibits, too. If you have exhibits that
2 you want to enter into the record so that we can make
3 sure we have an orderly transition of those exhibits,
4 would you go ahead and bring those forward, at least
5 during the interim time, so we can go ahead and number
6 them and have them available. It's not absolutely
7 necessary that we introduce them in their chronological
8 order, but it does help have a cleaner record.

9 Finally, I want to remind you, we did have
10 a little talking over, so we've got to make sure we have
11 a clear record. So please, in the future, remember to
12 speak one at a time.

13 Senator Zaffirini is recognized for an
14 announcement.

15 (Announcement by Senator Zaffirini)

16 CHAIRMAN DUNCAN: Thank you, Senator.

17 The Chair recognizes Senator Seliger for a
18 motion.

19 SEN. SELIGER: Mr. President, I move that
20 the Committee of the Whole Senate rise and report
21 progress.

22 CHAIRMAN DUNCAN: Members, you've heard
23 the motion. Is there objection?

24 Chair hears none. It's so ordered.

25 (Recess: 10:43 a.m. to 12:38 p.m.)

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AFTERNOON SESSION

TUESDAY, JANUARY 25, 2011

(12:38 p.m.)

CHAIRMAN DUNCAN: The Committee of the
Whole Senate will come to order. The Secretary will
call the roll.

ROLL CALL

SECRETARY SPAW: Birdwell?

SEN. BIRDWELL: (Indicated presence)

SECRETARY SPAW: Carona?

SEN. CARONA: (Indicated presence)

SECRETARY SPAW: Davis?

SEN. DAVIS: (Indicated presence)

SECRETARY SPAW: Deuell?

SEN. DEUELL: (Indicated presence)

SECRETARY SPAW: Duncan?

CHAIRMAN DUNCAN: (Indicated presence)

SECRETARY SPAW: Ellis?

SEN. ELLIS: (Indicated presence)

SECRETARY SPAW: Eltife?

SEN. ELTIFE: (Indicated presence)

SECRETARY SPAW: Estes?

SEN. ESTES: (Indicated presence)

SECRETARY SPAW: Fraser?

SEN. FRASER: (Indicated presence)

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1 SECRETARY SPAW: Gallegos?
2 SEN. GALLEGOS: (Indicated presence)
3 SECRETARY SPAW: Harris?
4 SEN. HARRIS: (Indicated presence)
5 SECRETARY SPAW: Hegar?
6 SEN. HEGAR: (Indicated presence)
7 SECRETARY SPAW: Hinojosa?
8 SEN. HINOJOSA: (Indicated presence)
9 SECRETARY SPAW: Huffman?
10 SEN. HUFFMAN: (Indicated presence)
11 SECRETARY SPAW: Jackson?
12 SEN. JACKSON: (Indicated presence)
13 SECRETARY SPAW: Lucio?
14 SEN. LUCIO: (Indicated presence)
15 SECRETARY SPAW: Nelson?
16 SEN. NELSON: (Indicated presence)
17 SECRETARY SPAW: Nichols?
18 SEN. NICHOLS: (Indicated presence)
19 SECRETARY SPAW: Ogden?
20 SEN. OGDEN: (Indicated presence)
21 SECRETARY SPAW: Patrick?
22 SEN. PATRICK: (Indicated presence)
23 SECRETARY SPAW: Rodriguez?
24 SEN. RODRIGUEZ: (Indicated presence)
25 SECRETARY SPAW: Seliger?

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1 SEN. SELIGER: (Indicated presence)
2 SECRETARY SPAW: Shapiro?
3 SEN. SHAPIRO: (Indicated presence)
4 SECRETARY SPAW: Uresti?
5 SEN. URESTI: (Indicated presence)
6 SECRETARY SPAW: Van de Putte?
7 SEN. VAN de PUTTE: (Indicated presence)
8 SECRETARY SPAW: Watson?
9 SEN. WATSON: (Indicated presence)
10 SECRETARY SPAW: Wentworth?
11 SEN. WENTWORTH: (Indicated presence)
12 SECRETARY SPAW: West?
13 SEN. WEST: (Indicated presence)
14 SECRETARY SPAW: Whitmire?
15 SEN. WHITMIRE: (Indicated presence)
16 SECRETARY SPAW: Williams?
17 SEN. WILLIAMS: (Indicated presence)
18 SECRETARY SPAW: Zaffirini?
19 SEN. ZAFFIRINI: (Indicated presence)
20 SECRETARY SPAW: Lieutenant Governor
21 Dewhurst?
22 PRESIDENT DEWHURST: (Indicated presence)
23 CHAIRMAN DUNCAN: Quorum is present.
24 (Pause)
25

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 QUESTIONS FROM THE SENATE FLOOR (CONTINUED)

2 CHAIRMAN DUNCAN: Senator Fraser, are you
3 ready?

4 SEN. FRASER: I am ready.

5 CHAIRMAN DUNCAN: Senator West, you're
6 recognized to continue your questioning with Senator
7 Fraser.

8 SEN. WEST: Yes, sir. Thank you very
9 much.

10 SEN. FRASER: And we're going to try it
11 without earphones. See how that works. I think I'm
12 good with you.

13 CHAIRMAN DUNCAN: And if I could advise
14 both of you, I had some -- we had some concerns about
15 you were both talking at the same time on your last
16 dialogue. So if each of you could remember that, and
17 I'll try to help you --

18 SEN. WEST: Okay.

19 CHAIRMAN DUNCAN: -- if you forget.

20 SEN. WEST: All right. Thank you.

21 Senator Fraser, I think, then, when we
22 were looking -- can I ask that the last question be read
23 back?

24 CHAIRMAN DUNCAN: The -- probably not
25 because we have switched court reporter shifts and so --

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1 SEN. WEST: I was just trying not to be
2 redundant on it.

3 And, Senator Fraser, if -- if I am being
4 redundant, we talked about --

5 SEN. FRASER: You are being redundant.

6 SEN. WEST: Okay. I need to ask the
7 Secretary of State about that.

8 (Laughter)

9 SEN. WEST: Wait a minute. Hold on. I'm
10 being redundant?

11 Senator Fraser, I think I was asking you
12 about the \$2 million; and you had indicated that those
13 funds may very well come from the federal funds, but
14 we're not certain at this point. And if they don't come
15 from federal funds, they will have to come from general
16 revenue, and we're at least -- the minimum amount is
17 about \$2 million. And I think that I mentioned to you
18 that the average teacher in the state of Texas makes
19 about \$48,000.

20 If we have to appropriate state funds in
21 order to fund this voter ID bill, it will cost a minimum
22 of \$2 million, and that's the equivalent of about 40,000
23 teachers. You do understand and appreciate that. Is
24 that correct?

25 SEN. FRASER: And I very much appreciate

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1 how valuable our schoolteachers are to the state of
2 Texas. Without a doubt, I'm very, very aware of that.

3 And, again, the discussion we had prior to
4 us breaking, we believe very, very strongly that there
5 is sufficient funds in the Secretary of State's budget
6 from HAVA funds that would -- that the letter says they
7 have enough funds to cover this. They are going to
8 request of the federal government. It is not
9 unprecedented. They have allowed that to be used
10 before, so we have every reason to believe it will be
11 done. And so the discussion of whether that money would
12 deprive some -- the rest of the budget is speculative us
13 not knowing because we believe very strongly that --
14 that that money is going to be available.

15 SEN. WEST: And this may very well be a
16 technical question for the Secretary of State.

17 If for some reason --

18 SEN. FRASER: I would never refer anything
19 to --

20 SEN. WEST: If for some reason the bill is
21 not precleared by Justice, will those HAVA funds be made
22 available?

23 SEN. FRASER: I'm sorry. That one I, for
24 sure, do not know the answer to that. That would be a
25 great question for the Secretary of State.

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1 SEN. WEST: For sure?

2 SEN. FRASER: For sure.

3 SEN. WEST: Okay.

4 SEN. FRASER: I do not know the answer to
5 that question.

6 SEN. WEST: Okay. And we need to make
7 certain we do. If -- would you support an amendment,
8 though, that basically says that if general revenue,
9 state revenue, had to be used in order to fund this
10 particular bill, that you would then delay the -- the
11 implementation of it?

12 And the reason I'm asking that is, surely
13 you don't want to take general revenue from our coffers
14 to fund voter ID when we may end up having to lay off
15 thousands of teachers. I would assume that you would
16 want teachers -- us to appropriate money to make certain
17 that we can fund our education system over funding a
18 voter ID system.

19 SEN. FRASER: Senator, could I remind you
20 that there was a motion in writing that was entered by
21 Senator Huffman of the -- the testimony of two years
22 ago. And I think if you'll go back and read that
23 testimony, yourself and several others, one of the big
24 arguments you had was making sure that there was
25 sufficient money that went forward for the education of

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1 voters, making sure voters understood and that no one
2 would misunderstand this process. So it's difficult for
3 me when you're arguing both sides of the issue.

4 I think the answer to your question is,
5 I'm not going to take a position today about whether we
6 should or should not. We are requesting that the
7 Secretary of State do sufficient education so that no
8 one misunderstands the -- the implementation of this
9 bill.

10 SEN. WEST: Regard --

11 SEN. FRASER: We're going to give -- we're
12 going to give them that power. And that without a
13 doubt, I would hate for us to be using money that could
14 be used for a schoolteacher, and I'm not going to get
15 into that debate because I'm a great supporter of
16 schoolteachers.

17 But I still stand by the letter from the
18 Secretary of State. The Secretary of State believes
19 very clearly that they have sufficient funds, the money
20 is available, and it will be made available.

21 SEN. WEST: So the answer to my question
22 is, is that if there are no federal funds available, you
23 would support an amendment that basically says that we
24 should not use general revenue in order to fund this
25 bill?

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: And my position is, is that
2 you've taken both sides of that issue. You argued in
3 favor of funds last time. You're -- now you're asking
4 for amendment saying we're not going to use funds. If
5 we don't use funds to educate voters, obviously that's a
6 problem.

7 And the answer is, no, I believe the
8 instruction to the Secretary of State is that we do need
9 to educate the voters.

10 SEN. WEST: So you'd be -- you'd be in
11 favor of cutting schoolteachers using -- and, I mean,
12 you agree with me that based on the budget that was
13 introduced by the House and the budget that was
14 introduced by the Senate, that school districts will be
15 under pressure to terminate some of the teachers that
16 would otherwise be in the classroom?

17 SEN. FRASER: I -- I don't agree with
18 anything other than the fact --

19 SEN. WEST: Okay. All right.

20 SEN. FRASER: -- that your own finance,
21 you're going to have to make those decisions; and we've
22 got to make sure that we educate voters, making sure
23 that they understand the implementation of this law.

24 SEN. WEST: All right. Let me ask the
25 question this way, then: Would you agree with me that

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1 both the House and the Senate have introduced bills that
2 put pressure on school districts to reduce their budgets
3 that would impact the number of teachers that would be
4 in classrooms?

5 SEN. FRASER: You're a member of the
6 Finance Committee that implemented a draft budget. I am
7 not. I have not advised.

8 And the answer is, I'm sorry, I don't --
9 I -- I'm not advised on that issue.

10 SEN. WEST: If you were so advised -- if
11 you were so advised that both the House and the Senate
12 by -- if you were so advised by me, the Chairman of
13 Finance, the Chairman of Appropriation, that both the
14 House and the Senate have introduced bills that would
15 require us cutting our commitment to our public schools
16 and our teachers, if you were so advised that both
17 houses introduced the budget that did that, would your
18 position still be the same as it relates to the question
19 I asked you concerning whether or not we should be using
20 general revenue in order to fund voter ID implementation
21 over funding our public schools?

22 SEN. FRASER: I am so advised that you're
23 a member of finance, a very respected member, and you're
24 very capable of making those hard decisions; and I'm
25 sure you'll move forward and make the right decision for

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1 our wonderful schoolteachers across the state.

2 SEN. WEST: What decision would you make?

3 SEN. FRASER: I'm sorry?

4 SEN. WEST: What decision would you make?

5 SEN. FRASER: I made a decision to support
6 you, as a member of finance, to keep you on the
7 committee.

8 SEN. WEST: So if you had -- if you had to
9 make a decision, though, if you were on finance and had
10 to make a decision, what decision would you make?

11 SEN. FRASER: I'm sorry. I'm not sitting
12 on finance. I'm not subject to being able to listen to
13 the debates, so it would be -- wouldn't be right for me
14 to take a position on that.

15 SEN. WEST: But if you had to make -- take
16 a position on funding voter ID over schoolteachers,
17 which one would you fund?

18 SEN. FRASER: I'm -- I think the
19 position -- because this bill is before us, it is
20 extremely important that -- that we deter and detect
21 fraud and restore the public confidence in the election
22 system.

23 SEN. WEST: So that's your answer in terms
24 of -- is that what you're telling the teachers, that
25 you'd rather do that than -- to the extent it's there,

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 you'd --

2 (Simultaneous speaking)

3 SEN. FRASER: Well, unfortunately, since
4 I'm not a member of finance, I don't get to make a
5 choice of what I would rather do. I'm laying --
6 bringing forward a bill today that would restore the
7 confidence of the public in the election system and --
8 today, because I'm sponsoring that bill, that I'm going
9 to ask that we -- you know, we restore that confidence.

10 SEN. WEST: So, I'm trying to -- so let me
11 make certain I understand your answer to my question.

12 SEN. FRASER: I know you're trying to --

13 SEN. WEST: Let me -- let me -- hold up.
14 Now, I'm listening, because if you remember, both of us
15 can't talk at the same time because the stenographer's
16 taking it down, and I'm trying to make certain that I am
17 reminded of that fact.

18 So your answer to that question is that
19 you would prefer to fund the voter ID bill, if need be,
20 with state funds than to put extra money -- take that
21 \$2 million, if we need to, and put it back in the budget
22 for our school districts?

23 SEN. FRASER: You know, the -- you know,
24 the important thing -- or the good thing with the
25 Legislature is you don't get to make -- answer questions

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1 for me, and the -- I did not say that at all.

2 Today I'm laying -- bringing forward a
3 bill that would deter and detect fraud and restore the
4 public confidence in the election system.

5 SEN. WEST: How does your bill detect
6 fraud?

7 SEN. FRASER: Come back? I'm sorry. I
8 didn't hear you. What did you say?

9 SEN. WEST: How does your bill detect
10 fraud?

11 SEN. FRASER: The -- the bill is designed
12 to deter and detect fraud and restore --

13 SEN. WEST: No. I asked you: How does
14 your bill detect fraud?

15 SEN. FRASER: The -- I think the easy
16 answer to that would be, is that when you walk into
17 the -- into your election booth and you show your
18 driver's license, they know for sure that you're Royce
19 West and that if you're on the precinct list,
20 registered, you're entitled to vote.

21 SEN. WEST: And so that's -- that's the
22 fraud detection provision in it? And so you'd rather
23 fund --

24 SEN. FRASER: That's the way the bill
25 works.

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. WEST: Now, let me ask you this: If
2 there's empirical evidence that -- in Texas, at least,
3 because, you know, we are -- we are Texas. We are the
4 Lone Star State. The rest of America can go this way,
5 and we'll go that -- the other way. Right? Right.
6 Okay. You're good with that. Right?

7 SEN. FRASER: I'm sitting here listening.

8 SEN. WEST: You don't agree with that?

9 SEN. FRASER: No, I'm listening to you.
10 You're --

11 SEN. WEST: We are Texans.

12 SEN. FRASER: You're still answering my
13 questions for me.

14 SEN. WEST: We're Texans.

15 SEN. FRASER: Keep going.

16 SEN. WEST: I'm just asking you whether
17 you agree with it. And so the question I'm asking you
18 is: Is there any indication that we have prosecuted any
19 fraud associated with identification in the state of
20 Texas? Is there any empirical evidence whatsoever?

21 SEN. FRASER: The bill that I'm bringing
22 forward today will clearly say that when you walk in the
23 voting booth, you identify yourself as who you say you
24 are, and the bill that we're bringing forward we believe
25 will pass the Supreme Court of the United States and be

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1 approved by Department of Justice.

2 SEN. WEST: I notice you keep on saying
3 that in terms of you believe that the bill is going to
4 pass muster at the Department of Justice and also the
5 United -- the Supreme Court of the United States. Are
6 you anticipating any -- let me -- let me ask this: If
7 the Department of Justice decides not to preclear this
8 legislation, are you anticipating any type of court
9 challenge by the state of Texas?

10 SEN. FRASER: Senator, I'm starting to
11 have trouble hearing you. Hold on a second. Let me put
12 my earphones on.

13 (Pause)

14 SEN. FRASER: Are you there?

15 SEN. WEST: Yes.

16 SEN. FRASER: Would you say something?

17 SEN. WEST: Testing, testing, testing.

18 SEN. FRASER: Okay. I got you.

19 SEN. WEST: One, two, three.

20 SEN. FRASER: Okay. Will you ask your
21 question again?

22 SEN. WEST: You have consistently
23 indicated that this particular bill will pass the
24 Department of Justice and also the Supreme Court. I'm
25 asking you: Do you anticipate that if the Department of

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 Justice decides not to preclear this particular
2 legislation, any litigation concerning it?

3 SEN. FRASER: You're -- you're being
4 subjective about me assuming what's going to happen. I
5 believe the bill that we had -- that we're offering will
6 be precleared.

7 SEN. WEST: But I'm asking if it's not
8 precleared. Do you want to see us go into litigation
9 with the federal government concerning your bill if it's
10 not precleared?

11 SEN. FRASER: I don't -- I don't think
12 that's, you know, my choice. I think we -- we will
13 present the bill forward and try to present our best
14 case that it should.

15 SEN. WEST: Okay. So does your bill
16 anticipate any litigation at all?

17 SEN. FRASER: The bill in no way addresses
18 or thinks about any litigation. It is clearly just a
19 bill saying this is -- this is what we're asking you to
20 do, to present a photo ID when you vote, and that's the
21 extent of the bill.

22 SEN. WEST: I know because -- and the
23 reason I ask that question, you continue to make
24 reference to the Department of Justice and the U.S.
25 Supreme Court or --

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CONSIDERATION OF SENATE BILL 14 1/25/2011

1 SEN. FRASER: Only because the -- the
2 bills that have been brought forward by other states,
3 which Indiana was cleared by the -- you know, made it
4 all the way to the U.S. Supreme Court; and then in
5 Georgia, they were precleared from the Department of
6 Justice because a bill -- you know, since we're a
7 Section 5 state, they were precleared.

8 SEN. WEST: Okay. In Georgia, not
9 Indiana. Indiana's not a Section 5 state?

10 SEN. FRASER: No, they are not.

11 SEN. WEST: Okay. Has the Legislature or
12 have you conducted any research on how burdens of the
13 photo ID requirements may fall disproportionately upon
14 racial minorities?

15 SEN. FRASER: Come back again. I'm sorry.
16 My sound went off.

17 SEN. WEST: Okay. In drafting your -- in
18 drafting your bill, was there any research conducted on
19 how burdens of -- burdens of photo identification
20 requirements may fall disproportionately on racial
21 minorities?

22 SEN. FRASER: Probably the best evidence
23 that I could bring forward, that the latest poll that
24 was conducted of Texans, including the people in your
25 area. Of the -- there were 86 percent of the public

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1 that in favor of that. Of that, 82 percent were black,
2 83 percent were Hispanic.

3 So I would say the answer to your question
4 is: If you ask someone that is either African American
5 or Hispanic, do they believe that -- "Do you
6 favor/oppose requiring a valid photo ID before a person
7 is allowed to vote?" and you have 82 percent of the
8 public that says that --

9 SEN. WEST: Right.

10 SEN. FRASER: -- pretty -- pretty
11 straightforward.

12 SEN. WEST: You keep referring to that
13 poll. What poll is that, sir, and who was it conducted
14 by?

15 SEN. FRASER: It was conducted -- this is
16 one of many we had. I've got a whole series of polls.
17 This just happened to be the latest one that was
18 conducted January the 10th, 2011. This one was by the
19 Lighthouse Opinion Polling & Research, LLC.

20 SEN. WEST: Lighthouse Opinion.

21 SEN. FRASER: Lighthouse Opinion Polling,
22 LLC.

23 SEN. WEST: Okay. And --

24 SEN. FRASER: One that was --

25 (Simultaneous discussion)

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1 SEN. WEST: Were you finished?

2 SEN. FRASER: Yeah.

3 SEN. WEST: Okay. Now, the question,
4 though, that I asked, not -- and I agree with you that
5 most people will say that some form of photo ID is okay.
6 Now --

7 SEN. FRASER: But what --

8 SEN. WEST: Let me -- let me finish. Let
9 me finish, though. Hold on for a second.

10 I would agree with you that, but my
11 question wasn't about their opinion. My question was:
12 Have you conducted any research on how burdens of photo
13 ID requirements may fall disproportionately on racial
14 minorities?

15 SEN. FRASER: And I think the answer to
16 that, if you look at what happened in Indiana and
17 Georgia is a good example because it is a Section 5
18 state. In those states, to our -- to my knowledge,
19 there has not been a single person that has come forward
20 to identify themselves that they were in any way, you
21 know, in -- you know, kept from voting or inconvenienced
22 by voting.

23 So the answer to your question is, that I
24 look at the data that has been collected from the states
25 that have implemented, and they're coming forward. That

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1 is the case. Plus the fact that if you ask African
2 Americans or Hispanics in Texas, it's a very
3 straightforward question. When you have 82 percent of
4 the public, the people that you represent, saying, you
5 know, "I think that's a good ideal," I'm having a lot of
6 trouble understanding how -- why you don't understand
7 that.

8 SEN. WEST: Okay. So the answer to my
9 question is, is that you did not conduct any type of
10 research on it other than looked at opinion polls and
11 referenced what went on in other states?

12 SEN. FRASER: No, we've done all --
13 there's been a lot of research done.

14 SEN. WEST: And that's what I was asking.
15 What research have you done --

16 SEN. FRASER: I just explained --

17 SEN. WEST: -- to make that determination?

18 SEN. FRASER: -- to you what we did. We
19 have looked at the experience of other states. And
20 you're going to have witnesses come from some of the
21 other affected states, and you're going to be able to
22 ask that question: Who has come forward in your state
23 and said it's a problem?

24 SEN. WEST: Okay. So you're saying, then,
25 that as a result of experiences in other states and an

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1 opinion poll, that that is the sum total of the research
2 that's been done by you in preparation of this bill?

3 SEN. FRASER: Senator, I think the people
4 in your district understand very clearly. If you ask
5 them a direct question, someone you represent, and said,
6 "Do you favor or oppose requiring a valid photo ID
7 before you're allowed to vote," this is -- that's not
8 rocket science.

9 SEN. WEST: Well, the --

10 SEN. FRASER: "Should you be required to
11 show your picture ID when you go into vote?" That's --
12 that's -- to me, that's -- that's, you know, pretty
13 telling.

14 SEN. WEST: Well, the great thing about it
15 is, we're going to have an opportunity to do just that.
16 Because guess what? I've got a few people from my
17 district down here to testify, so you'll have an
18 opportunity to ask them that. Okay?

19 SEN. FRASER: Good.

20 SEN. WEST: But, again, that's the sum
21 total of your research, though. Right?

22 SEN. FRASER: I didn't say that was the
23 sum total of my research.

24 SEN. WEST: Now, would you agree that
25 Texas has a larger proportion of minorities than

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1 Indiana?

2 SEN. FRASER: Not advised.

3 SEN. WEST: So if -- if the demographic
4 information that we have from the U.S. Department of
5 Census indicated that, you would not disagree with that.
6 Correct?

7 SEN. FRASER: Well, I mean, every state
8 has a different demographic of the makeup of people
9 within the state.

10 SEN. WEST: Sure. I know that, yeah.

11 SEN. FRASER: Georgia is a -- you know,
12 they're -- they're a Section 5 voter rights state, but
13 their makeup is not exactly like Texas.

14 SEN. WEST: That's the point. That's what
15 I'm asking you. You said you weren't advised, so I was
16 just trying to point to you some set of facts that all
17 of us commonly know that we get from the Department of
18 Census, U.S. Department of Census. And if they give
19 different demographic information for the states, then
20 that would probably be controlling, and you would agree
21 that that's the best evidence that we have of what the
22 population is in those various states. That's all I'm
23 asking. Now, let me ask this.

24 SEN. FRASER: But you're trying to answer
25 my question, and I did not say that.

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1 SEN. WEST: No, I'm not. But are the
2 forms of identification listed in your bill the least
3 restrictive options in order to achieve the goal of
4 avoiding what you call voter identification fraud?

5 SEN. FRASER: Okay. You're going to have
6 to ask that again.

7 SEN. WEST: Are the forms of
8 identification that you've listed in the bill the least
9 restrictive options in order to achieve the goal of
10 avoiding what you have said is voter identification
11 fraud?

12 SEN. FRASER: And I think what you're
13 asking, which is going to be the easiest to use? And
14 the -- the data, if you look back at 2006, the number of
15 people that have registered to vote, about -- I think
16 the number now is 91 percent actually use their driver's
17 license when they registered to vote. So the assumption
18 is at least 91 percent of the people that voted -- or
19 that registered since 2006 had a driver's license. So
20 I'd say that's the -- if it's the -- the easiest thing,
21 I'd say a driver's license.

22 SEN. WEST: So this -- the list of
23 identifications that you use as the -- is the least
24 restrictive options that you could come up with?

25 SEN. FRASER: Well, I don't -- I'm not

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1 sure. Your verbiage you're using, I don't know that
2 that's the intent.

3 SEN. WEST: Well --

4 SEN. FRASER: I'm saying that the thing
5 that the -- the type of identification that is most
6 readily available appears to be a driver's license.
7 It -- we think, that is.

8 SEN. WEST: Okay. Now, since there are
9 studies that show that African Americans and Hispanics
10 are more affected by poverty and --

11 SEN. FRASER: Ask him, then.

12 We're trying to figure out if this is a
13 filibuster.

14 SEN. WEST: Is it a what?

15 SEN. FRASER: A filibuster?

16 SEN. WEST: Oh, no, this is serious
17 business. This is serious business.

18 SEN. FRASER: I guess I would remind you
19 that the information that was put into the record this
20 morning by Senator Huffman, the questions you've gone
21 over, I believe we put these --

22 SEN. WEST: Well, at any -- at any point,
23 you can defer to whomever you want to answer the
24 question.

25 SEN. FRASER: No, no, I'm saying --

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1 SEN. WEST: You've been referring to the
2 Secretary of State.

3 SEN. FRASER: -- these -- the questions --
4 the questions you're asking, the question and the answer
5 are already in the record from two years ago; that
6 you're asking the exact same question, and I'm answering
7 the exact same answer. It's already in the --

8 SEN. WEST: And it may very well be. I
9 just don't remember. I haven't gone back and read that
10 entire record. It was like 26 hours. So if I'm being a
11 little bit redundant, please give me -- give me a little
12 space on that.

13 Let me go back to the questions I'm
14 asking. Studies have shown that African Americans and
15 Hispanics are more affected by poverty and, therefore,
16 are more likely to participate in government benefit
17 programs. Will the elimination of the government
18 documents as a form of ID disproportionately affect
19 African Americans and Hispanics?

20 SEN. FRASER: I'm not advised.

21 SEN. WEST: Okay. If in fact -- well, let
22 me back up and ask you this question.

23 Do you agree that African Americans and
24 Hispanics are disproportionately affected by poverty in
25 the state of Texas?

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1 SEN. FRASER: Not advised.

2 SEN. WEST: Okay. Do you --

3 SEN. FRASER: I grew up in a pretty poor
4 family, so --

5 SEN. WEST: Well, that's what I know, and
6 correct me if I'm wrong because we've had our
7 conversations. Your father was a minister, too. Right?

8 SEN. FRASER: Minster and --

9 SEN. WEST: Okay. He went to a lot of
10 African American churches?

11 SEN. FRASER: Yes, he did.

12 SEN. WEST: Did a little singing and stuff
13 like that?

14 SEN. FRASER: Yes.

15 SEN. WEST: Okay. And do you represent a
16 district that has a high poverty level -- or excuse
17 me -- a high ethnic minority population?

18 SEN. FRASER: Interestingly -- well, and
19 what you call high, it is not one of the highest
20 percentage wise of ethnic minority. But the last figure
21 I was shown, my district is the third poorest district
22 in the state, right behind Senator Uresti's. That
23 that -- that number is a couple of year's old, but
24 I'm -- you know, the --

25 SEN. WEST: Okay.

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1 SEN. FRASER: -- people in my district
2 are -- are the working poor.

3 SEN. WEST: Okay. The -- the protected
4 classes, that would be an African American and
5 Hispanics, do you have a high concentration of African
6 Americans and Hispanics in your district?

7 SEN. FRASER: Well, I don't know what
8 you'll call a high percentage. I've got --

9 SEN. WEST: Okay. Comparatively speaking.

10 SEN. FRASER: There -- there are a lot of
11 my voters in my district that, you know, I'm -- I love
12 to say "my constituents" -- that are African American or
13 Hispanic.

14 SEN. WEST: Are they in poverty or what?
15 I mean, you know what poverty is.

16 SEN. FRASER: Well, Senator, if --

17 SEN. WEST: Oh.

18 SEN. FRASER: If I have the third poorest
19 district in the state, that implies that we have some
20 people that are working poor.

21 SEN. WEST: Let me just ask you this
22 question.

23 Do you know whether or not the elimination
24 of the government documents that have hereto before been
25 utilized by voters for identification purposes at the

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1 polls --

2 SEN. FRASER: Issued before?

3 SEN. WEST: Yeah, I mean, under current
4 law. Let me back up, then.

5 Based on current law and the various
6 government identifications that can be used for purposes
7 of voting, by eliminating those, whether they have an
8 adverse impact on ethnic minorities in the state?

9 SEN. FRASER: Let me -- let me tell you
10 that the people in my district voted -- or they're
11 polling that they -- 92 percent of them say that they're
12 in favor of this -- this requirement.

13 SEN. WEST: Okay. So you don't -- and
14 that's your response to my question?

15 SEN. FRASER: My response is, is that I
16 think the people of the state of Texas, which makes
17 up -- I think it was 83 percent of -- of African
18 Americans and 85 percent of Hispanics, said that they're
19 in favor of it. I'm sorry. It's 82 percent Hispanic --
20 I'm sorry -- Hispanic, 80 -- 83 percent Hispanic, the
21 African American, which is -- it's listed as a black
22 vote, is 82 percent say they are in favor of asking for
23 a photo ID.

24 So it's -- it's -- this is a pretty easy
25 question for them, "Should you have to show your -- your

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1 photo ID, your driver's license, when you come in to
2 vote?" And they said, "Sure. That's" -- you know,
3 "That's fair."

4 SEN. WEST: And that's your response to my
5 question?

6 SEN. FRASER: Yes.

7 SEN. WEST: Okay. No more questions at
8 this time.

9 SEN. FRASER: Thank you, Senator.

10 CHAIRMAN DUNCAN: Chair recognizes Senator
11 Lucio for questions.

12 SEN. LUCIO: Thank you, Mr. Chairman.

13 Senator Fraser, under this legislation,
14 there are no exceptions at all if you do not have a
15 driver's license -- and correct me if I'm wrong --
16 military ID, citizenship certificates, or passports.
17 Now, not even Senate IDs are appropriate for the
18 purposes of voting. That means the state employee
19 working in the building wishing to cast a ballot during
20 early voting at the Sam Houston Building couldn't use a
21 combination of their voter registration card and their
22 Senate ID. Further, this bill's requirements for
23 identification are stronger than what's used for new
24 employees in obtaining driver's license, the way we
25 understand it.

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1 Now, I know many people don't think it's
2 all that difficult to get a driver's license and that
3 everyone has one, but that's just not the case.
4 Eleven percent of Americans surveyed by the Brennan
5 Center for Justice do not have government-issued photo
6 ID. Forty percent of those without voter ID are
7 disproportionately the -- the elderly, the -- the
8 students, women, people with disabilities, low-income
9 people, and people of color.

10 According to disability advocates, nearly
11 10 percent of the 40 million Americans with disabilities
12 do not have any state-issued photo ID. So I do not see
13 how this legislation is going to ensure that they are
14 not kept from exercising their right to vote. Again,
15 it's a right. It's not a privilege. Plus, according to
16 that same survey, one of every five senior women does
17 not have a license.

18 What troubles me even more about the
19 legislation is that it could mean, for so many, under
20 this legislation, election workers will be responsible
21 for determining identity; and that has never been part
22 of their job as election clerks.

23 Now, I got a question.

24 SEN. FRASER: Is there a question coming?
25 I'm looking for the question.

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